

## Closed Caption Log, Council Meeting, 12/10/09

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Mayor Leffingwell: Good morning, everybody, I'm austin mayor lee leffingwell, I'll begin with the invocation from the reverend magdalene holm-roesler, holy cross lutheran church. Everyone please rise.

Let us pray. Gracious and loving god, bless our city of austin and make it a place of safety for all people, both rich and poor. Inspire our mayor and city council with the grace to work for neighborhoods that become and remain vibrant and whole, where the lost and forgotten in society are supported and where the arts flourish. Make the diverse fabric of this city a delight to all who live and visit here. And a strong bond uniting people around common goals for the good of all. Strengthen and empower each and every one of the governing officials in this city. And all those who work for the city. In the words of the prophet isaiha, may they be filled with the spirit of wisdom and understanding, the spirit of knowledge and might, the fear of the lord, both now and forever, amen.

Thank you.

Mayor Leffingwell: Please be seated.

Mayor Leffingwell: Good morning. A quorum is present. So we'll call this meeting of the austin city council to order. on december 10th, 2009. We are meeting in the city council chambers in city hall, 301 west second street, austin, texas. We will start by reading the changes and corrections to today's agenda. 42, after the word pedestrian, insert the word bicycle, so facilitate innovative pedestrian and bicycle transit oriented development, et cetera. On the same item add located between north lamar boulevard and strike the mueller development and add ih 35. 65, add the planning commission recommendation is to grant family residence historic landmark sf 3 h combining district zoning. Our time certain items for 30 briefing on urban rail, urban rail update. At 12 noon we will have our general citizens communication. 00, we'll take up our zoning matters. 00, we will convene a meeting of the austin housing finance corporation board of directors. 30, we will have our live music and proclamations. The live music for today is by the vocal group house of songs. 00, we will begin our public hearings. The consent item for today is items 1 through 46 and i will read the board and commission appointments, 40 into the record. To the austin airport advisory commission, deanne johns. To the austin mayor's committee for people with disabili, jesus larza zoble is councilmember spelman's appointment. To the

commission on immigrant affairs, miguel arcera is mayor leffingwell's appointment. To the planning commission, benjamin deleon is mayor pro tem martinez's appointment. To the comprehensive plan citizens advisory task force, carol torgenson is a council appointment. So, again, the consent agenda is items 1 through 40 with the following exceptions. 5 is pulled for speakers. 7 is pulled by councilmember spelman. Items number 8 and 17 are pulled for speakers. 22 will be pulled for a staff report prior to the vote. 20 will be pulled for speakers. 26, pulled by councilmember riley and item 36 pulled by councilmember riley. And I will announce now, although it can't be 00 this evening, that councilmember riley plans to ask for a postponement of item no. 93. So -- so that is the consent agenda. Do I hear a motion for approval? Councilmember riley moves approval of the consent agenda. Councilmember shade seconds. Is there any discussion? Councilmember morrison.

> Please show me as voting no on item no. 21.

Mayor Leffingwell: We will show you voting no on item 21. All in favor of the consent agenda say aye.

Aye.

Any opposed? And so that -- so that passes with councilmember morrison voting no on item no. 21. The consent agenda passes on a vote of 5 to 0 with mayor pro tem martinez off the dais and councilmember spelman off the dais. I will announce now that mayor pro tem martinez will be off the dais for the entire day. He is on a -- a trip to israel with a hispanic delegation sponsored by the antidefamation league. Councilmember spelman just got word that he will be here in about 10 minutes. So we will hold off on the item that he pulled until then. So we will begin to go through those items pulled from the consent agenda in order. The first is item no. 5. 5 was pulled because of speakers, the first speaker is rod shoulders who is against item no. 5. Donating time to rod bob tomlinson. I he l the chamber? shoulder, you have six minutes. mayor, members of the council, I'm rodney shoulders, I'm the managing member of fairfax tunnel partners and I'm the vice-president and one of the owners of mole constructors. Thank you for allowing me to speak today. I have come before you today to talk about the downtown wastewater project. During the bid solicitation process, there were errors. My firm on bid date filed an attempt -- attempt to file a protest and subsequently we followed that up with a formal protest to the city. Base on the low bidder not meeting the experience requirements that were stated in -- in the specifications. As you are probably aware, this project bid back in late october, as you probably are also aware, it's a very complex project. It goes under town lake and the colorado river, no less than four times. It goes under interstate 35. It goes under a -- a parking garage for some new condos down on riverside. With the project this complicated, the engineer who put together the specifications in the plans, recognized that you needed a contractor that met certain experience requirements. My firm met those experience requirements. The firm that is being voted on today did not meet those experience requirements. The specifications went on to say that the bidder must list and [indiscernible] construction experience as a general contractor for a minimum of three successfully completed projects of comparable size, scope and complexity. The specs narrowed that qualification down a little further and said that the bidder must have completed these three projects in the last five years. They narrowed it down even a little further and said that the contractor must have built a tunnel, I'll quote this, by tunnel boring machine constructed mainly in rock or hard ground with a minimum continuous length of 5,000

feet. They narrowed it down a bit further and said a second criteria was that the contractor had to have built a project by tunnel boring machine with a carrier pipe of 48 inches or larger in internal diameter. With a grouted tunnel with a minimum aggregate length of 5,000 feet. The low bidder that you are voting on today is a joint venture of two firms. Quest and sack. Quest is not a tunnel contractor and sack's first full year of business, according to their website was last year. I have taken a look at the documents provided to the water and wastewater commission by contracts and land management. Those documents are faulty. They contain errors. The contract had a provision that allowed a corporation like mine to change their name and maintain our experience. If mole constructors became mole contractors, we would still have mole constructors experience. I have with me today a document, an e-mail from the city's project manager to the -- I guess the compliance manager of land management. It stated that [indiscernible] holder corporation changed their name to sak in 2006. I also have with me the state of missouri, secretary of state's filings for afholder corporation for last year, showing that they are still in business, they are still the same location and that they have not changed their name to sak. A group of individuals from afholder construction company, left that company, formed their own company, and then used sak's experience. I can't hire a brain surgeon and become a hospital tomorrow. The experience required for this job comes from the depth of a corporation. A corporation and its years of experience and its continuity. Quest, their joint venture partner, is not a tunnel contractor. According to their information, they only claim to be. They have never built one. Afholder did not change their name to sak, so i cannot see how they can use their previous employers' experience to qualify themselves for this job. As I said earlier, this is a very complex job. This thing is going to go under lady bird johnson lake, town lake, the colorado river, interstate 35, a parking garage, and very close proximity to those items. One misstep by that contractor and this project will end horribly for everyone involved. Light of all of these issues, I'm asking that council vote to not award this project to sak/quest. In addition to these items, I'm running out of time, i can't quite cover it all, there were problems in the section of the contract. They listed a contractor to 7 million in pipe fittings, a w.b.e. Contractor. [Buzzer sounding] could i have one additional minute? Okay. They listed that subcontractor to meet the compliance goals of subcontracting with a -- with a woman business enterprise. 7 million in pipe fittings. I can guarantee you that every pipe fitting on that job will fit in the back of my pickup truck and won't cost more than \$10,000. I think somebody is trying to hood wink you. Again, I ask that you vote to not award this contract. Thank you.

Mayor Leffingwell: Thank you. Is there any comment from staff in response?

Good morning, mike trimble, director for land contract and management department. With respect to some of the issues that were raised, we have a protest process as part of our bid process. And some of those issues were filed under our protest process. In that process what we do is we thoroughly consider all of the issues that are being raised by anyone protesting our process. They really can protest two key things. Either the process that we go through for the bid or the award itself. The issues that were brought up by the contractor were brought back to us, I went back to staff and reviewed those thoroughly. We had several people review the issues that were raised. The result of that analysis was that we were confident that the process was followed correct limit we were confident that the experience requirements were met as per our contract documents. And so, therefore, I found as director of contract

land management no grounds for the protest based on our internal review.

Mayor Leffingwell: Thank you. Any questions, council? Councilmember morrison?

Morrison: This is on a bit of a different topic with regard to the program. I wanted to ask our staff if they could talk a little bit about what we might expect to see in terms of disruption of downtown traffic during the project. I had questions from folks wondering, we had so much going on downtown, wondering about how that's all going to work out.

Good morning, greg, austin water. The project, extensive construction, a lot of that is deep underground tunnel boring. Most of the visible work will occur at several shaft locations. We have coordinated extensively with all key stakeholders in the downtown area, the performing arts center, aisd, other key folks to make sure that we coordinate with their events. We are restricting construction traffic to certain times. During rush hour, any construction in any of the roadways will be plated so that there will be traffic flow. I think we're only anticipating one roadway to have a lane closure, that's riverside and it's really on the side of traffic flow that is -- is not as intense during rush hour. That's for some shaft work at riverside. So we're very confident and spent a great deal of time trying to coordinate with downtown events and stakeholders as well as manage the traffic related issues. We work closely with our traffic staff on that and to have put extensive resources and time in planning the project to minimize disruptions. It is a big project, there's going to be a lot of construction for several years. I can't tell you that it won't be noticeable. But we have taken a lot of steps to see that this is well managed from the interruption perspective.

Morrison: What's the time line we can expect starting and finishing?

Provided we stay on track with the award process, we would start construction sometime in 2010 and the actual construction process would -- would be several years, we would be completing construction, notice to proceed would be 12-31-2009 and it would be about a 27-month duration. Roughly a little more than two years. Say through the end of 2011 or early 2012 we would expect completion of the project.

Morrison: Thank you.

Mayor Leffingwell: Any more questions? Is there -- councilmember spelman?

Spelman: trimble, the fella protesting was alleging not interpretation so much just differences of opinion about fact. I wonder if you could address the kernel of the issue that he was dealing with. Is sak a spin off which would not be entitled to the benefit of the experience of the parent corporation? Or is the name change or how -- how do your procedures work on something like that?

Right, well, the key question is the continuity of business. In other words, can we interpret, you know, that this firm basically transitioned into this other firm. And you have got to understand, also, the reason that we do the review in the first place is to look at the capabilities of a company to perform this work. So that's what our focus is and our intent when we do our review. Based on our review of the personnel

who transitioned from this firm to this new firm, it was so substantial such that it -- it was clear that there was a continuity of key staff, qualified staff that actually did this work over here that are doing -- that are going to be doing this work over here. So, therefore, it was appropriate to consider the experience requirements that followed from one to the other.

Spelman: About how many people transitioned from the parent corporation into sak.

I don't have the exact numbers.

Spelman: Are we talking three or --

10 to 12. High level staff. We're for the talking about low level staff. We're talking about substantial members of the firm who moved over.

Spelman: Approximately how many of those substantial members of the firm are likely to be loaded on to this project?

All of them, I believe.

Spelman: All of them. That's 10 to 12 is about what you would expect for high level members of a firm that does this kind of work to be involved in this kind of a project?

Well, we try to look at each project and each bid and based on what the particular needs are. The technical requirements. But based on this bid, based on this particular requirement, based on the capabilities that we needed to see for this project, this met what we were looking for.

Spelman: Thanks.

Mayor Leffingwell: Is there a motion on item no. 5.

Move approval.

Councilmember spelman moves approval. Councilmember morrison seconds. Any discussion? All in favor say aye.

Aye.

Any opposed? Passes on a vote of 6-0 with the mayor pro tem off the dais. And we had a request to take item no. 22 early. But we have a time certain item. Do you anticipate that going very quickly? All right. We will go ahead and go in order then, the next item is 7 pulled by councilmember spelman.

I pulled it actually so we could consider item 7 so we could have the staff briefing at 10:30.

Mayor Leffingwell: So 7 temporarily and go to items 8 and 17, where we have speakers signed up. To speak. The first speaker is gus pena. Gus pena in the room? Second speaker is jane palmer. Is jane palmer in the room? So neither of the speakers signed up are in the chamber. I will entertain a motion on items 8 and 17 together.

Move approval.

Mayor Leffingwell: Councilmember spelman moves approval. Is there a second? Councilmember shade seconds. Any discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Vote -- passes on a vote of 6-0, mayor pro tem off the dais. And -- and that takes us to item no. 20. 20 has two citizens signed up to speak. First speaker is gus pena. Is gus pena in the chamber? Second speaker i nelson. Bob nelson. Is bob nelson in the chamber? Neither of the speakers are in the chamber. Those are all of the speakers that we have. Is there a motion on item no. 20? Councilmember morrison moves approval on item 20. Councilmember shade seconds. Is there any discussion? All in favor say aye.

Aye.

Any opposed? 20 Passes on a vote of 6-0 with mayor pro tem off the dais. And -- I believe it's close 30 to go ahead 30 time certain briefing without objection.

Good morning, mayor and council, I appreciate the opportunity to begin this discussion. Continue the discussion of our urban rail program. I'm going to take just a couple of slides to go ahead and introduce the topic. Really to focus on what we've done in the last year and a half with this body to prepare for this day and go forward basis what the next steps are. I really wanted to run through more for the audience than for this body what we have done. February of '08 the council amends the downtown plan scope to include rail studies, to continue to focus on that tool in our toolbox, to continue to do education and information gathering on our rail program. In June of '08, during the fy '09 budget process, in response to the city manager's direction, we put an aggressive transportation infrastructure recommendation before council to focus on many elements of our transportation infrastructure, primarily at that time on street reconstruction. The recommendation was to provide funding on an operating and capital aspect, to reduce our number of poor lane miles by 800 in the next 10 years and then the operating side that was done by a transportation user fee and the council recommended adoption of that and then on the capital side what the proposal was at that point was to launch a preparation for a bond program that could be as early as 2010 to address all of our transportation infrastructure street reconstruction sidewalks, including urban rail. September of '08 the city manager again recognizing the transportation priorities of this community, hired rob spiller, our transportation director, to focus on this issue and put 24/7 focus on the transportation mobility issues of our community. November of '08, we put him to work very quickly, he came before council to review and the urban rail submittal to the transit working group, a subcommittee of our campo, december of '08, the transportation department based on a grant from the

great austin chamber of commerce launched a study of access to and from central spiller will talk about that. In june of '09, in the fy '10 budget process, we requested in the cip budget funding to develop long range transportation programs. Primarily a strategic mobility plan focused on all of our transportation system as a whole, the multi-modal aspects of that system, and then also urban rail studies, one of the tools and elements of a well-functioning transportation system. In july of '09, the transportation department published the downtown circulation study which i mentioned earlier with a grant from the greater austin chamber, confirming the central austin mobility issues that we have in spiller will go into greater detail in the next few slides in that. September of '09 council approved the operating budget, including the transportation studies i mentioned earlier. In november of '09 we launched the strategic mobility plan based on your authorization of the consulting contract for the engineering firm and team. And that really is our focus on the multi-modal seamless transportation system. Not just roads, not just rail, not just sidewalks, but all of the above. So we are launched and with that community discussion on our first phase of that as a transportation gap analysis. And then we also began to address the urban rail campo planning issues, using the environmental rotation lists and then today on your agenda is the request to approve the urban rail preliminary engineering contract, which will again providmore information on the urban rail element of the strategic mobility plan. spiller's presentation today has one primary goal and that's to list the remaining questions that we need to ask and answer in order to -- to ask the community whether or not to support a rail program. So our goal today is to see if you think we've capture all of the questions that we need to ask ourselves in the community whether or not that's a program that we go forward with and then give you an understanding about the time frame when we think we can answer those. With that I will turn it spiller and he will go through the remaining part of the presentation.

Thank you. I would like to begin by talking about the outcome of our downtown circulation study. This is the study that was grant funded by the greater chamber of commerce. The salient outcome or the finding that we confirmed is that we really have a circulation problem here in central austin. When I say central austin, i mean downtown, university district and capital complex. What we found is that vehicle trips had not grown over the last 20 years when we look at daily vehicle trips. At the same time, that employment had grown something like 20% and downtown residential units by over 100%. What we found is the reason this is occurring is because our roadways into central austin are absolutely at or beyond capacity. That means that we really can't put any more cars on the roads that come in. And everybody thinks about mopac and i-35 and shakes their head, yeah, they're full, they're full. We're not even talking about those two facilities. We're talking about the roads that lead from those facilities into central austin. They are absolutely full. And what this suggests is that if we want to help make central austin continue to be sustainable, to continue to see the growth in employment and residential density that's I think are advantageous to our economy, we have to find a way to get more people into central austin. DURING THE 80s AND 90s, Of course, the transportation group here at the city looked at a variety of ways to enlarge the arterials, do things like reverse lanes and so forth. And that really met with no public support and actually we were told to stay away from those. So really we have an issue, how do you get more people into town? You have to start thinking of some other modes and so this is the crisis that we really need to respond to today. An fy '10 mobility budget, of course council approved the development of the austin mobility program. That really focuses on developing a strategy mobility plan

for austin. To think beyond the next bond cycle, but over a series of bond cycles. To allow our members that are representatives at campo, capcog, other regional transportation providers, the ability to have a game plan to work from. It really starts to build a transportation network that can serve the needs of austin as a community and that you can advocate for as we move forward. Of course, we propose to address a wide range of modal alternatives and solutions. The focus is on defining what the individual mobility issue is. Depending on where it is within the region. And the right tools to get at that -- at that specific transportation issue. It's focused on both short term fixes as councilmember morrison has asked us repeatedly to look at. As well as midterm and long term solutions. We're going to talk about some of those results. In terms of quick fix projects, if you will, we have already started implementing them. Thank you for your support in replacing the downtown meters. I can tell you that parking is becoming easier, people are finding places to park. The broken meter problem is significantly reduced. We have moved forward, again with your support, to complete the major interchange at mopac and ben white at - - that's a major step forward to improve mobility in and around the brodie oaks sort of area. Working with txdot, we are moving forward likely to construction this summer to finish the i-35 at ben white interchange and just in the newspaper the other day, based on a conversation between txdot and myself, they are moving forward to fix riverside and 71 on the way to the airport. Major mobility improvements within our region that are on the short-term process. Of course, we are also deploying the smart cars in terms of cars to go. And other programs that will help address demand on the short term. When we start to look out further and talk about a strategic mobility plan. Again, we need to think multi-modal, clearly that includes, pedestrian, bicycle plan, strategic mobility plan, trail plan, we are already ahead on the pedestrian and bicycle we have already incorporated plans, but also a thing called urban rail. We have separated that out as we moved forward as a separate project because the -- the width of professional expertise needed to look at rail as well as the rest of the strategic mobility plan issue was really wider than we thought could be handled in a single contract. We divided those out into two contracts so we can move forward simultaneously, so that hopefully this spring we can bring you back information to start making basic decisions about how you as policy makers want to move forward in terms of a potential mobility bond or mobility vote, whenever that might be or when that might be appropriate. I would like to talk about the strategic mobility plan specifically. ON NOVEMBER 5th, COUNCIL Approved a consultant team. As you remember, that was kimly horn, they have already started the process to look at the various gaps within the network. Staff did not wait for their -- for them to be hired. In fact back in november we actually started a series of public outreach exercise in -- exercises in -- in tandem with the comp plan. I think over about six public outreach meetings in addition to some outreach meetings that we had with individual neighborhood groups, we have already collected over 6 or 700 comments from citizens about specific gaps within the network that we're looking into and we'll be respo collecting as we move toward this spring about bringing potential solutions to those gaps back to you. At the same time, we have launched the urban rail program, again as you have heard from us before, we have actually brought on two consultant teams from our rotation lists to finish the alternative analysis, the cap -- that capital metro began and also to start the environmental process, which will document what the environmental issues might be in deploying an urban rail program as we move forward. What you are being asked today to do is to hire the engineering firm that will take up from the end of that process, starting in january, to improve our understanding of the critical issues regarding risk and engineering as we move forward to giving you the information you need to make

some fundamental decisions. So we've heard out in the public why the city of austin and I think we have a good story to tell here. The city of austin is -- is an infrastructure building organization. We're good at implementing infrastructure. As can be seen by the -- by the cost effective delivery, on time delivery of things like the austin bergstrom international airport, pfluger bridge, nub of those projects were quote unquote what the city had built before. Those are unique project that's we had to gear up, get the expertise to do and deliver according to our citizens' needs. I guess the other thing, which is not unlike what a -- what a potential urban rail program might be like the think the other thing is that we are at the center of central texas, we do represent a major portion of this region. Somewhere between 45 and 70%, depending on what part of the region that you are looking at. We do have a responsibility to meet the needs of our citizenry as we look toward the future to make sure that we are economically sound and sustainable. Why now? Again, another question from the public. Austin's rail program will take one to two years to prepare for constructio we're not getting ready to build it tomorrow. This will take time to get ready. Current federal administration is favorable towards rail projects. We heard just this week that president obama is taking a portion of the fta money in the next several years and specifically targeting it towards quick fix projects or quick start projects on urban rail or circulator type of projects. The longer we are in a position where we don't have some basic decisions made, the longer we risk not being accessible to the federal moneys. So the idea is that we need to get started. There's favorable contracting opportunities now so we need to get the planning and the basic regional decisions completed. Austin urban rail program turning directly to that. Our program goals are to address the urban growth mobility needs of central austin. Clearly we have defined a mobility crisis that needs to be addressed. Facilitate urban development, of course, provide diversity of transit options. We know that in this community there are no silver bullets left to fix the specific variety of mobility issue that's we have. So -- issues that we have. So we need to focus on a variety of opportunities for people to travel. To give you a little picture of where we are regionally. Back in 2004, capital metro board adopted a system plan, transit system plan for the region. They called it the "all systems go plan. In fact in 2005 campo incorporated most of those pieces of the system except for the jolly rancher shaded areas in the middle of the area into the regional plan. Those shaded areas were designated for additional study and in fact that's what was launched by capital metro. I guess that I would point out that when campo adopted the all systems go plan, they actually replaced the city's regional transportation plan element, the light rail now portion of that plan. Capital metro then initiated a circulator alternatives analysis. I happened to be the project manager on the consultant team that worked on that I can assure you i think it was a very good alternative analysis that was completed. That document was published, but because at the end of that process capital metro began to understand that they had a financial crisis coming, they did not adopt that alternatives analysis. Send the end of that publication, I'm going to talk a little bit more about that in detail here, some additional technical questions have come up. For instance, what would be the first piece of this system that you should build? And so what we need to do, what the city plans to do, with your guidance, obviously, is finish that alternatives analysis and bring it back here for adoption as a plan that the city of austin would -- would then proceed with. The downtown austin plan started to answer some of those questions that added the south part of the entire system. And then in january, 2009, that was the system or the urban rail program that was presented to the campo transit working group. So that's where we headed to again. A little background. Again, the alternatives analysis that capital metro completed looked at the north part of the urban rail plan, as you've seen before. It

connected the communities of mueller, , capitol complex, cbd and seaholm, cbd being the downtown area. What that facilitates, one of the key points their plan facilitated was the connection up to a much larger regional system. The idea had been by an investment in a small circulator, we suddenly as a community get access to a much larger regional system. Not only the leander connection that they are in the process of deploying now, but also a potential connection out to manor and elgin and much larger the austin/san antonio corridor rail project that would connect us to san marcos, georgetown and points to the south. So we have the opportunity to connect up to a very large regional system. The piece that was shaded earlier in this graphic is the piece that the city of austin brought to the table through the urban downtown study. And we added the piece that went south of the river and out to the airport. The concept here was about 10 minute frequency service on the outer edges, but that means in the central downtown, the backbone of the system, you would have very frequent service at about five minute head ways, that was the concept of the plan. We plan to go back and answer some key questions on this in terms of what the first investment piece might be and what the downtown elements might look like. The questions that we believe need to be answered before a decision on a referendum are these here -- we're going to go through these now. I'm not going to give you the answers, but I'm going to give some of the additional detail on some of the questions but also tell you when I think that we will have answers for you on those questions. First question is where should the first investment segment be? We think we will have initial answers back to you by february or march. In fact might be seeking your approval of that initial segment before we go further to make sure that we're on board with that. The first investment segment does need to focus on serving the three primary employment areas in , the state and the cbd. As we start to think about that first segment, we have to be concerned about capacity, system capacity of the downtown system. One of the things that i think we need to be honest with is that once we cross the river, and once we get , there will be demand for other routes that we don't know yet about. And so we need to plan for that capacity need. Dallas, right now, on their downtown dallas route that is very similar to the proposed route in this downtown austin, is now hitting capacity issues and when I say capacity issues, I mean the number of trains trying to get through traffic signals. Because if we're at grade we have to go through traffic signals. If we contemplate more routes from south of the river some day or north of , we're going to have more trains than one line can probably handle. So we need to think about some other routings. I personally believe that we might need two north/south routes in downtown and two east/west routes in downtown. We need to plan for that now as part of the initial system planning so we know what we're building towards if we choose to go that way. Couple more questions, how many people write it and how does it get constructed. Of course both of those depend on what your first segment is that you are investing in. So we would expect in the early spring that we would have answers to those for you. Who operates the system? This is a key question. As I said at the beginning of this presentation, the city of austin is a good infrastructure builder or a good infrastructure implementer. What we are not right now is an operator and we understand that. We think that there are five options for operating a system here in central texas. Three of those revolve around existing entities. Capital metro, of course, is an operating entity. But there's lone star rail, which is the new austin san antonio corridor, rail proposal. There is, believe it or not, ctrma, which has authority from the state to operate rail. There's of course the option to form a -- a not for profit organization that would focus just on operations. That is a system similar to what many of you saw in phoenix when we visited there. That system is being operated by not for profit. And then there is the city option, where we would create a

department and become an operating entity. As the mayor has said, I back him on this, I don't think that's a good option. I don't want to be an operator, but those are the issues. The criteria that we should look at revolve around things that you would think about. Financial sustainability, financial ability to operate a system. Regional system context in terms of connecting up all of these systems. I think the region needs to have a discussion about is it wise to have two, three, four different operators within a single region. You can have two or three different owners within a region, but you don't want to have necessarily two or three different operators in a region. That's a regional discussion that needs to happen. How much will it cost? Additional answers by february, additional detail through 2010, through the summer. The idea here is that our alternatives analysis consultant, once we develop an idea of what that first investment segment will be, they will develop those first segment costs. As you know, the previous costs that were displayed to the public were for the entire system. We did not create that first investment segment cost. And I want to talk about that here in a second. But then after that cost is developed and we have the -- the preliminary engineer on board, that preliminary engineer will be used and deployed first to truth those costs, if you will. We know where the greatest risk is going to be. It's going to be underground in utilities and it's going to be anywhere this thing turns 90 degrees because there we have the potential to effect corner pieces of property. That's where we will deploy engineer to do more detailed analysis. Then cost, how much design do you do to get a viable cost estimate? Every time we put together an infrastructure project it's a balancing of risk. We often go to the voters with very little design done on many of our roadway projects. What we have to understand is that in doing that there is inherent risk and to compensate for that risk you build into your cost estimates what's called contingency. So you never build a house and say I have gotten thousand dollars in my bank, that's what I'm going to spend on the house because we know when the plumber comes and when the electrician comes the budgets go over that. So what you do is you plan for that potential risk and you build that risk into your cost estimates so that you have a curb son, if you will -- cushion, if you will, to accommodate the unknowns, especially the unknown that's you don't know about. To give you an example, with this agreement that you just helped us sign with txdot on the mopac at ben white interchange, we had 100% design. It was sitting on the shelf for a number of years, we incorporated 10 to 15% contingency in that price estimate, so that we can make sure if there's an unknown out there we can deal with it. Obviously, if you have less design than that, you need a healthier or a wider contingency built into your numbers. The other question is in terms of how much design is needed, please understand that rail systems, just like airport systems, are very expensive to plan and design. Costs that the federal government allows you to assume for engineering and design are up to 20% of the construction price. So if we have a big number for a construction price, the cost to engineer, design and plan is going to be a big number. Staff believes that we should not go that far without asking the voters to approve us going on this route. And so at some point we need to get enough information that the voters have a good idea of what we're proposing and then of course this is a recommendation to you, for them to make a decision to authorize us to finish the design process. The other thing about how much design you need that goes directly into how much it costs is that the further you go down the design process, beyond 20, 30, 40, 50%, you start to lose the opportunity for deployment techniques. Once you go beyond 10 or 15%, you are starting to lose the advantage of things like design build and design build operate that are now available to us as a community in the state of texas. And so that may be a deployment method that we want to think about as we go further and that by myself suggests [indiscernible] how would it be funded? Now, previously I

proposed a funding model where we would really step out as a region and fund locally the first piece. Looking to use that for future federal -- financial support, fund of different pieces, there are four or five or six different metropolitan areas that are stepping out this way. Major advantages to allow us to control the schedule and the scope of the project on our time frame. Again, to do this in the near future [audio problems, please stand by]

ability of other federal funds that are not transit oriented. For instance, fta right now has a program that will fund pedestrian and bicycle connections to major transit facilities and so that might be a funding option that keeps us out of the new starts process and allows us to continue on our schedule that we set. There's also, believe it or not, federal highway money that's we could pursue, for instance where we cross i-35. There is a nexus with federal highways administration to perhaps rebuild some of those facilities for general mobility improvement. Also, environmental issues that have to be identified, we expect that the spring will have preliminary environmental issues as well as recommendations on how we might mitigate those, we think those are going to be important in the decision that you move forward with. In fact the potential environmental issues may dictate what the first segment is reasonably going to be. So we understand that we're moving forward with those questions. And, yes, those are pelicans, that's not from this area. Those pictures there, i apologize. We talked about the regional opportunities, we think we need to contemplate those as we move forward in the segment, the ability to hook up to the other systems that gives us an opportunity to serve as a catalyst for the larger regions. We think that's absolutely the role of what the studies will look into. We think by february we will start to have initial answers as well as ideas on partnerships that may give us some advantage as we move forward. What are the next steps. good presented on THE 14th, WE ARE GOING TO Transit working group. For those of you on the transit working group, you're going to see substantially the same presentation with a little orientation difference. Public involvement is BEGINNING ON THE 14th. At that same time, we are having an open house here 00 to 00, monday, to allow people that would come to the transit working group, but also get more detailed information, hook up with our program. We will be going to boards and commissions, probably in january, continuously, when I say boards and commissions, it's not just one. It's utc, it's the environmental board. Several boards and commissions in downtown commission will all be coordinated through this. They all have an interest, if you will, in what we're doing here. We are also engaging other agencies, cities, et cetera, and then probably working with you all in february thinking that about every couple of months, it takes us a couple of months to get enough work done that we can get back to you. Of course we will brief you one on ones and in council subcommittee briefings any time you need us to, of course. We will come with a federal funding strategy in february as part of those briefings, then we will start to have a -- have a -- a transit map moving forward for you. That's the end of my presentation. If there are any questions, I'm happy to answer them for you. [01:59:54]

Mayor Leffingwell: I will start off. Can you pull up multi-modal? The series of off values connected -- ovals connected to each other. I don't know the number. While you are pulling that up, I want to mention that I'm really proud of the way that the city staff has cooperated with other agencies to fill gaps in the transportation system using innovative financing, such as the one that we announced a couple of weeks ago at mopac and ben white, which is a financing collaborative between txdot and the city. Something that's not often done, txdot doesn't often collaborate with anybody, much less the city of austin. And with the pay back to the city over a period of time. Also, other projects that are now starting to -- to go

forward because there's additional funds identified because projects now are costing less money. We're seeing that not just in transportation, but in all kinds of capital projects. And I'm sure we'll see that in capital projects that we're about to start on. Bringing that money to build in some of these gaps, so that's a real good thing. I wanted to emphasize the multi-modal approach that we want to take. Because they are all kind of touching each other. I think there's one little oval that you might want to add to your slide program, that is the airport.

Yes, sorry.

That's definitely a part of our transportation plan. The points that I want to -- the point that I want to make is that these -- these different modalities connect, but they don't overlap. So we can't be in the business of trying to enhance one specific mode while we're inhibiting or curtailing another mode. That's really important as we go forward with all of the different modal plans, including an urban rail plan. We want to make sure that we don't reduce our roadway capacity as a result of adding rail. We have got to endeavor to do that without, again as you mentioned, the -- the downtown is already at or above the capacity, so we don't want to be in the business of reducing lane miles in the downtown area and perhaps elsewhere, too. So that's -- I just think that's one thing that we have to keep in mind as we go forward and not get in the business of siloizing these different modes, but making sure they work together. I also want to mention we have a lot of different tandem efforts going forward at the same time. We have got the city council, of course, and we've got the transit working group, councilmember cole and i are members of that group, we're going to meet next monday and hear this presentation again. I promise --

sorry about that, sir.

Mayor Leffingwell: I promise I won't have any questions. So we have got to make sure that we somehow keep them all in touch with each other as we go forward. I'm -- I want to -- i appreciate you editorializing that you didn't think that I would support the city operating a rail line, I will confirm that, that's true. I really don't think that's a gwod idea. Although the city ought to be involved in the construction of it. And I think we will be. So -- so we do have to answer some questions and we're going to have to answer them fairly quickly. If we want to go on the suggested time table. But we want to reiterate that we have to have good solid answers as you indicated to all of these questions before we put this initiative before the voters for a referendum. Because not having these questions answered, i think, is a recipe for failure. At the same time, I don't want to take the pressure off of you to any degree to be focused on this -- this earliest possible date of november of 2010 for transportation bond election. That's still our focus. But we have to make sure that we answer these questions at the same time. Anything else?

I apologize for this graphic. I think it shows the two dimensional limitation of my thinking. So -- [laughter]

Mayor Leffingwell: Well, we're -- I'll keep you in three.

I will work on that third dimension, I promise.

Cole: Mayor, I have a question. First of all, I wanted to mention that all of the people that we have working on this, both inside the city and outside the city and of course the outside agencies and all that you have done to try to get us this far.

Thank you.

And I -- I can't agree with the mayor more that the city once had a hospital, we don't need a transport -- we don't need a rail system. I just wanted to be clear that's one thing that you shouldn't be working on.

Yeah. I get that.

I have -- [laughter]

Cole: Just making sure. ... in the interest, of course, of making sure that we do this right, and even though we're aiming for a november date, that doesn't mean that if for whatever reason, right reason, that you become concerned that we can't deliver by that date or that the city is -- is somehow at risk, do not hesitate to come forward to the city manager or this council and deliver emphatically that message, because that's why we're here, to hear it. And we're putting a lot of stock in you to deliver by that date, but even though we're saying deliver by that date, we're though the saying you can't tell us when you think it's a problem. That's if you think it's a problem tomorrow. So with that, I know that you are saying that you are going to come back to us in early march or so, but -- i think march 1st would kind of be one of our absolute drop dead dates that we would have to have some answers to some of the very big questions, like who are you recommending that is going to operate, what is our exact route, and what do you think the cost estimate would be and how do you recommend that we're going to fund it and then the -- the initial design questions, because of course, we have seen other agencies have so many concerns with that. And council needs to weigh in on all of those issues because I don't think there's any doubt that all of us support rail and that's the reason we're going forward with this. But we just want to make sure that we're giving you clear directions. With that, let me ask you a couple of questions. Have we received any information from any other financial -- any other entity that they -- besides the federal government, of course, that they are interested in participation? We have been having off and on discussions since last spring with a variety of entities, university of texas, state of texas, lone star rail, we continue to communicate obviously with capital metro. Until we get that first piece identified, the first investment segment, it's really too early to say, you know, and we have to put some meat on the bone before people are willing to step forward. But I think that we will find that there will be partners out there that want to participate with us, councilmember cole. One thing about the schedule of responses, please understand we're not going to come to us on a single day with all of the answers. We've developed a schedule where we'll be coming back to you, at least a couple or three times in a variety of venues with pieces of the answers so that you guys, as well as us, can get some comfort as to where we are so this spring hopefully we have informed you sufficiently that you can make that choice as to whether to go forward or not.

I was very pleased to hear you say that you would be conducting one on ones if necessary or whatever it took. Because I know we don't always have council meetings every week, also waiting a week is

sometimes too long when you try to get this much work done in this short of time span. If there's anything that you need from us as a council while you talk to the other entities, please let us know that -- because I think that that would help the voters approve this if they knew that there were other entities that were willing to step up. Even if they weren't willing to step up for this face, they are highly interested in another phase that is coming.

I didn't hear any other discussion about density. Any analysis of density. And in other cities I know that - has been a very critical factor in terms of determining where the first phasings and additional phases, are you all looking at, that is that part of the analysis?

Well, clearly, in identifying the first investment segment, full, there's a variety of issues that we'll be looking at: Clearly, how do you get the most bang for your buck, especially since we are potentially using local funding to do that first piece, we are going to want to make sure we have a big success. There are other issues about for instance one of the driving issues in picking that first piece, where do we put an interim maintenance facilities and maintain these vehicles, whatever they might be. There's a variety of issues. Density is also very important in terms of the funding approach. The funding support or the financial analysis that we'll be bringing to you i believe at your next council meeting on the 17th for approval, is to assist us with detailed finance analysis for -- for potential future tax increment financing options, that obviously deals directly with density, some of those are studies that you have asked for before, with regards to the red line, we're not proposing today that's the way to go, but we certainly need to understand what those opportunities are. So density is going to be a major opportunity. I think also, councilmember cole, that when the riverside corridor was -- was chosen by the city as -- as a desirable route towards the airport as opposed to some of the other routes, I think clearly on the wind of the planners at that time was the opportunity that as the riverside corridor begins to redevelop, to develop within the available density that's are there. But there's clearly a lot of -- of land along that corridor that has an opportunity of redeveloping at higher densities than parking lots provide today. Density is definitely a part of that, but it's buried in the analysis a little bit. So --

Cole: Okay. But I'm understanding you to say that you're coming back next week with an economic analysis and model, is that --

not an economic analysis and model. A request to engage a financial consultant to help us flesh that out. In the same time frame that you would need to make these decisions.

Cole: Okay. Their report will come out probably early spring.

Yes, ma'am.

Cole: Okay. Well, let me try to give a little bit of direction of what would be important to me in that analysis. We have to know what the -- what the impact will be on our bonding capacity.

Yes.

And we have to know that not only immediately, but also for -- for I would say a five year span because we usually issue bonds, the big package on a six to seven year and we're doing an interim which has been done before, but we need to know the effect not only now but also on the long-term big package.

Absolutely.

Cole: And then we also need to know, inow we currently don't have a lot s and the reason for that is because it takes money out of -- of general revenue and we just don't have the discretion to spend throughout the city.

Yes.

Cole: So we will need to have an analysis of that impact, not only for rail, but how it impacts potential general fund revenue.

Yes, ma'am.

Cole: And then the second thing, probably the most important that is often I think -- I think not made clear, is the potential operating costs and the fact that -- that sometimes that is not only -- not only is that volatile, but we don't have dedicated revenues to sustain that. And so we need to be clear on how we're going to fund that into the future. And it doesn't have to be -- you know, three 57600 let's not threaten future general fund budgets or the budgets we typically get. What we're going to be asking our consultant to focus on, what is the added that rail creates beyond what we might see on a normal growth projection in terms of value. And then focus on that to say how we might conceive investing in that and/or capital expenditures. I think we're on the same page with you.

And we have been on a number of different trips since I've been on the council where rail has been very successful and even in dallas and houston, but we also know those cities have much, much more density than we have. And oftentimes that rail actually generates that density in certain parts of town like downtown, but it doesn't generate that density in other parts of town. So we want to make sure that we're making a apples and apples analysis on where that potential density will come from.

Yes, ma'am.

Cole: With that, again, good work and we appreciate your efforts.

Tha you.

Mayor Leffingwell: I concur with councilmember cole's request, specific information on financing, and I believe a lot of that analysis on bonding capacity has already been done but we can check on it and build on it byp.f.m. The comment about operating expenses, certainly we should talk about that but that is one of the main reasons i think the city should not be involved in that part of it at all. Because it's too hard to anticipate what budget impacts would be and we don't want to be competing transit dollars with

library dollars, for example.

Absolutely.

Cole: Mayor, I definitely agree with you and I only asked about that because i anticipate we will be asked to contribute even though we have somebody else that we hope to take that on.

Mayor Leffingwell: Anything else? Councilmember morrison. Spelman next.

Morrison: Thank you. First I want to say i appreciate my colleagues' questions and comments because I think that they are all important things that I'm also interested in following up with you on. I want to thank you and the staff because I think one of the most important pieces of being successful with mobility in general and if we go forward with rail is that we understand fits in context that is correct we understand how it fits in context with the region, with other mobility avenues, as well as one of the things, for instance, that you commented on, if we're looking at our first piece of investment, we really want to be looking at what a full system might look like so that we can keep in mind -- I think you mentioned, for instance, you might envision two lines north-south and two lines east-west and we need to have that big picture in mind when we're working from the ground up. So I think that's all very important in -- in doing it right and being successful, which I know we're all interested in doing. I wanted to mention -- just provide two comments. One is you were talking about where you foresaw the greatest risk and that was I think you mentioned wherever it's going to turn a corner and another.

Underground utilities. Because underground utilities are often not where the maps say they are and so you have to do some work to verify if not exactly where the utilities are, quantify what the potential risk is of doing that. And you know, the city of austin actually has a pretty good record of that having done the great seats program downtown, and that risk is greatest in central downtown because that's where, you know, it's like a pretzel, everything is together down there. We actually have a pretty good track record of understanding what the underground utility costs might be as we move forward.

Morrison: And in fact the lamar reconstruction project ran into that and I know there nimble work going on around the underground utility.

There's always the unknown.

Morrison: Exactly. I wanted to throw out one other piece of developing to keep in mind and that's integration. I think any engineer that's worked on any projects, particularly software engineering that I have some background in, you know that integration is where you try to think ahead and overweigh the problems, but that is i think can be the moist problem -- most problematic phase. Of course, if we do a good job of design we minimize integration problems.

And thank you for pointing that out.

Morrison: And lastly, just one other detail comment I wanted to make. When you were mentioning

what's going to be done under the environmental assess, one of the pieces was the socioeconomic impact. And I know that's something I've spoken with folks about and if we're looking at, for instance, something coming down manor road, we have some very well established neighborhoods that have, i would say, historically not been high cost neighborhoods, although some of that might be changing now, and one of the big concerns is that when we're looking at the property value increase, which in a way we're going to be relying on because that means for taxes, we really need to think about how does that impact the folks that have lived there for 20, 40 years and what kind of tools could we envision to avoid having this rail chase them all out of their neighborhoods.

Yes.

Morrison: And so hopefully when you come back to us, we'll have some options for tools to look at. And you were talking about the boards and commissions that you are going to visit. , which I hope you will, community development commission, i think they might be able to help us focus on that issue in particular.

Thank you. I appreciate that.

Mayor Leffingwell: Councilmember spelman.

Spelman: One of the nice things about going towards the end is somebody else will have already asked the best questions and probably in a better way than I would have asked them myself. There was one big question i wanted to be sure to nail down, though. I think you've skirted around the edges of it and I think i know the answer but I want to be sure I've got it clearly. There's been a lot of discussion among the public and the press about this council moving towards a bond election on november 2010. Anocarrierringconnect 57600

Mayor Leffingwell:.. And I'm sure that at the time we will be able to make that decision based on the information that we have. City manager.

If I may, mayor, thank you very much. I just want to knowledge all about the comments and questions and issues raised by council. We're with going to endeavor with a lot of expertise that we're bringing on board that we do as thorough as job as possible in terms of answering those questionsnd getting you ready so you can make a decision in the early part of spring. In terms of the information, all of the questions that need to be answered, I want you to understand that we're probably going to provide that to you in a variety of forums, sometimes as councilmember cole noted, we'll be talking to you one on one, but we're going to use all the other modes of communication available to us. And so sometimes information will come and your discussion will occur here at a council meeting in terms of these council briefings and the discourse that occurs as a result. In other instances, depending upon how substantive the issues are and the information, we may be asking to you set aside special time in the form of a workshop so that we can really, you know, drill down into some of these issues. And I think in some cases it will merit that carolina of attention given the order of -- that kind of attention given the order of magnitude and the implications of what we're talking about. So I just wanted you to know that this stuff,

this information is going to come back to you in a variety of different ways. The other thing that I wanted to do was to certainly spill and his staff for all of their work on this issue, and you heard about all of the other things, accomplishments that have been made so far just since we put a transportation department in place. But I also want to especially acknowledge our assistant city manager, Robert Good, so that you know and understand he is the executive sponsor for many of the accomplishments that we've made and for this urban rail initiative that's underway. And he sort of stands there in the background, but you should understand that his fingerprints, if you will, are all over the things that come to the mayor and council as well. So Robert, thank you for your leadership in this as well.

Mayor Leffingwell: Questions, council? Thank you very much. Appreciate the presentation. We'll look forward to many more visits from you. With that, we will take up related item number 7. Number 7 has no citizens signed up to speak.

Move approval.

Mayor Leffingwell: Councilmember Cole moves to approve item number 7. Soul Pelman seconds. All in favor? Any opposed? Passes on a vote of 6-0, Mayor Pro Tem off the Diaz. And that brings us to item 22. Item 22 has been pulled for brief staff presentation.

Council, Dana Johnson from the city's law department.

Mayor Leffingwell: If you can hold it down to a dull roar so we can continue our meeting.

Item 22 is before council for approval of a settlement agreement of a lawsuit. We have a proposal that we discussed with council in executive session. The lawsuit is a long-standing land development lawsuit concerning some tracts of land that are at Barton Springs, 11 1155 Barton Springs Springs. In some cases it's the Treehouse restaurant tracts. This matter has been in dispute for a number of years. PPT development is the developer on the tract. They sued the city over a dispute as to application of the compatibility portions of the code, provisions of the city code in 2006. At the same year they obtained a judgment which was adverse to the city in 2006. Since that time, there was a brief stand still between the parties. The litigation was not permanently resolved and I guess reemerged this year and another judge reaffirmed the adverse decision against the city with regard to compatibility at this site. After that second judgment this year, the parties engaged in negotiation for a number of months. At this time we have an agreed judgment that commits, I guess in judgment form, this exemption for compatibility for the development, and what we have done is attempt to negotiate a satisfactory resolution to the lawsuit. And that's what this item is here that we are presenting on item number 22 for council. What we have up here are the main components of the settlement proposal that the law department is recommending. The developer, PPT, would agree to limit development on the front of these two tracts, the front tract is commercial zoned. They would agree to limit the uses to residential uses, accessory uses to the residential uses and pedestrian oriented and certain limited office uses. PPT would also agree to height limitations for their development. They would also agree to some limitations on rooftop structure heights and I'm going to have to come back to this bullet, this third bullet in just a few minutes. Compatibility McMansion and design standards would not apply to the settlement proposal. The waterfront overlay of

august of '06, which was when the judge's ruling came down, would be applicable to that front. Cs-1 tract. The terms of the settlement proposal would be available for the developer's use for 12.5 years. And all of these components would be committed or have actually at this time been committed to an agreed judgment that the trial court would sign off on and then it would have the force and effect of an agreed judgment and be effective. Since we brought this to council's attention I guess last month, it's been brought to my attention that one of the components or certain aspects of that third bullet, the rooftop structure heights would -- one aspect of that or a couple aspects of that would violate zoning regulations, and therefore I should have caught that we could not include those two aspects in the settlement agreement. Specifically there's a paragraph in the current agreed upon tentative proposal that allows extra height for solar panels. And there's also three extra feet of allowance, if you will, for rooftop structures in the mf-3 tract. It's permitted in the front s-1 tract and we made it the same on both tracts and it turns out that extra three feet is not allowable. What this does, council, is puts us in a position of having to withdraw -- support this proposal, but withdraw those two aspects of what ppt had agreed to and we were presenting to council. So we notified ppt only yesterday about this matter. And at this time the law department would seek the council's approval of I guess a proposal for settlement of this land development lawsuit with those two exceptions withdrawn from it.

Mayor Leffingwell: Does that mean the settlement you are proposing excludes solar panels in this project?

No, mayor, essentially what we would have to do is withdraw from the agreement the extra three feet above the allowances that are given for rooftop structures. We had allowed some three feet extra on both tracts for solar panels, and that is what aspect of -- one of the two aspects of the settlement agreement that is not permitted for council to vote on as with land use and planning had proposed initially.

Mayor Leffingwell: So I'll ask again, does this exclude --

it does not.

Mayor Leffingwell: How would they incorporate solar panels if they don't have that additional three feet?

They would have to fit them in within the allowances that have been allowed for I guess all of the rooftop structures. In other words, no extra three feet would be allowed. They would have to fit them in.

Mayor Leffingwell: So they would have to penalize themselves in other ways in order to incorporate solar.

If their design had incorporated an extra three feet, they would not be allowed to use that, that's correct.

Mayor Leffingwell: Seems like a disincentive for solar to me. Could -- is the applicant's representative here? I'd like to ask the same question about how that affects their plans for the project with regard to

solar.

Mayor, mayor pro tem and councilmembers, michael whalen on behalf of ppt development. These were last-minute questions that councilmember morrison raised earlier this week with staff and bowled even creek neighborhood association, and I got notice, as you heard, last night. And frankly it would have been helpful to have some direct communication from you as i did with you reach out, councilmember. We can always, you know, get to a better spot with earlier direct communication, I think, and you talked about economic development. I think this is a classic example of infill in a place where there's an extraordinary amount of impervious cover. And we make it so difficult to do business in the city of austin, and when we don't have direct communication, we just make it that much more difficult. Having said that, solar is something -- the application we were looking for was a pole with a -- the panels on top so that you could move them up and down to follow the sun. It is correct that we -- it needs to be removed according to their -- to staff's review of it. You know, what I wld ask because this was a hard negotiation, it was done in good faith, we gave up a lot. You can see the list. We had a judgment that, in my view, applied to any use on the property and we've restricted that so that after the time period passes, we will have to return to the code, to the current code despite the fact of the judgment. What I would ask is if we're going to delete these two items that have been mentioned, that we add another year and we demonstrate leadership and show folks in the city of austin that you can do business and when we make last-minute changes, we're not going to give you money but we're going to continue the work to make this possible. Maybe the technology will get better and better. I think it's going to get better and better on solar. 5 years to get building permits. That means we have to cite site plans earlier and I think 5 years would be fair. I can't think of anything else you could possibly give us.

Mayor Leffingwell: So we're basically engaged in minor negotiation of the settlement negotiation as we speak.

At the last minute, yes, your honor. Councilmember morrison.

I said your honor because this is not a format that i appreciate.

Mayor Leffingwell: Is that suggestive of another format?

I don't think I've made any bones about this is not my favorite venue. My favorite venue is at 10th and guadalupe.

Mayor Leffingwell: Understood. Councilmember morrison, do you have a question?

Morrison: I did want to just comment. whalen, I appreciate your comments and I did want to clarify that I had just asked a technical question of staff a couple days ago when we met. I do appreciate your reaching out and we spoke in august, i think it was, and all of that, and it became a question of legality and how this all worked. So I was just relying on our staff to answer that technical question. But I look forward to continued direct communication, and this is an unusual situation and i understand your position of it was a delicate give and get so it's completely reasonable for you to come back and say,

hey, how about we look at trying to find that balance again. And I know you want to be good neighbors, so I think that's certainly something reasonable for the council to consider.

Well, thank you.

Morrison: But I'm not done yet. I do have a question for you. The compatibility that is, you know, set aside for you all because that's the issue that's at hand, did you all ever talk about, you know, we think about height and all of that, did you all ever talk about the issues, the other issues that are involved in compatibility including lighting and screening mainly?

Yes, and those are -- the agreement, the agreed judgment that we reached includes application of the waterfront overlay as it existed at the time that we have a current live site plan. We have one right now. So that takes care of screening -- excuse me, windows, trash screening, a bunch of that stuff. The only two items that are not covered are lighting to be shielded and downward and at the property line are the only two items. The design that we have currently on file has those items. I mean that -- this is meant to be a residential -- the judgment we have obtained is much broader than the agreed judgment. The agreed judgment is for a residential use. And in that type of use, you are ultimately going to have those items as part of the design. Those two items, which are not covered.

Morrison: And is that something you could commit to in the settlement?

Well, since we're engaging in a negotiation, maybe then it should be 14.5 years. You know, this is -- I've told staff to dart me with a tranquilizer at some point. And because of the last-minute negotiation that we so often engage in in a public forum, and I don't segue to a fill ossicle debate this makes it difficult to do business here and to generate the economic for all the transportation and the other great programs, the answer to your question, yeah, it can be added. We can do a lot of things. I'll put it back to you. Would you be willing to support getting building permits, have your building 5 years and we'll take away the items that they just mentioned and add the shielding and add the screening -- excuse me, the shielding and what was the other item, thomas? Shielding and what else? And noise. And mechanical noise. I mean that -- I mean are you willing to do that?

Morrison: Let me just say I agree having this kind of last-minute negotiation is very problematic and part of the problem is that these two pieces which would have been important to the folks who live nearby didn't get considered during the negotiations, so I hope we can just put that whole issue aside. But as you are saying --

and I circulated it weeks ago and made myself available, but yeah, I hear you.

Morrison: It was circulated after this really wasn't much room for moving it around. So -- and so no, I guess I'll just have to rely on the good neighborliness of all of you and your plans to just adhere to it as a residential thing because I don't feel like it's appropriate to open it up for 14.5.

Mayor Leffingwell: Thank you, councilmember. I would agree with that. We have a basic thing on the

table, the additional year 5 with the correction on the solar panel height. If we start -- this is a complex puzzle. If we start renegotiating the entire thing here, there's no telling what we might wind up with. So I think we ought to basically -- this is my opinion, basically leave it at that, something -- and I would ask the city attorney if that's something that can be incorporated in today's action.

Yes, mayor, we've got, as i said, a form settlement that we were ready before this came up to submit to the court should council agree. So what we would do if that would be council's will is simply add a year to the time period and then, of course, remove the -- the solar panel paragraph and then that other three feet on that back tract for the fm-3 tract. We are able to do that.

Mayor Leffingwell: Councilmember riley.

Riley: Just a quick question for staff. Could you identify the particular code provision that created the problem with the solar panels?

I don't know it off the top of my head, but greg guernsey is here and I think we can -- it's the height. It's the height.

Riley: The problem is it's just the general height limit that applies.

Yes. We created the problem, i guess, when we separated out and gave three more feet for solar panels. And that three feet exceeds the allowances in those zoning districts for rooftop.

Riley: Yet some rooftop structures are allowed beyond the general height limits in the land development code.

Greg guernsey, planning and development review department. And there are -- councilmember, under 25-2-531, there's a section that deals with heights. Actually exceptions to heights. And it allows exception for heights for parapet walls, fire towers, stairways, elevator penthouses, heat, cooling equipment and protective covers. And for ornamental towers, coop las domes and spires not designed for occupancy. We had people actually construct these structures -- [indiscernible] I don't think that's so much of the issue, but what being discussed was just a solar panel structure, kind of like a pole with a solar panel out. The ordinance current written does not make a provision for solar panels. Our code was written and approved in march of '84 for this language, so it may be dated in that respect. Certainly we could, with some direction, could do an amendment to add something that would accommodate solar panels to be in that same 15% exception as it's called out for all of those things.

Riley: Okay. So I'm looking at 25-2-531, paragraph b.

Correct.

Riley: And it specifically identifies the things you listed but does not mention solar panels. It seems like it would be a fairly straightforward code amendment to add solar panels along with chimneys. I mean

chimneys are fairly commonly recognized to not be all that environmentally friendly, fireplaces are generally not as widely embraced today as they were at one time. So anyway, it seems like it would be a fairly straightforward code amendment to add in solar panels to that code provision. Maybe I'm mistaken about that, but we could go through that process. I just wanted to ask if we were to do -- if we were to make an amendment like that, would that -- I don't know if the agreement that is on the table today, given that it 5 years to -- it would allow that length of time in order to get this project done, if there were code -- I mean are we looking in the current code development provisions or if there were -- if sometime down the road there were code addressing that would they be able to do that?

The agreement locks us into august of '06. Which was the date --

Riley: I see. So future code amendment wouldn't be of any help for this project.

Until 13.5 years.

Riley: Right.

Until after that.

Riley: Okay. Thanks. That's all I have.

Let me ask deborah thomas, and I'm thinking out loud in terms of changes and regulations would that benefit the landowner or the permit holder or whatever. Thinking of the grandfathering sense. Would that be applicable in the situation that councilmember riley is discussing where there would be an advantage us change to regulations or not?

And perhaps the more direct way to address it would be that the agreement uld just clarify that if there are changes to the regulations regarding solar panels and the height permitted for the solar panels, that the applicant could take advantage of that.

Mayor Leffingwell: So what are you saying. Say it again, please.

That we could amend the agreement to clarify that if at a future date the council does amend regulations regarding the height, that would be permitted for solar panels, that the applicant could take advantage of that.

Mayor Leffingwell: Okay. So we could incorporate that in the settlement agreement.

Yes. Mayor Leffingwell: And i would assume that the applicant is still going to 5 years because that's kind of an if statement. They have no assurance that's ever going to happen.

I believe that would be true.

Mayor Leffingwell: Okay. So what we're looking at is a straightforward adjustment to 5 years with the additional statement that if the code is ever changed to include solar panels along with chimneys, that you would be able take advantage of that additional -- I guess if the code -- yes.

Mayor Leffingwell: 5 years to expire.

Right.

Mayor Leffingwell: Okay. Councilmember spelman.

Spelman: I will not indulge in any further negotiations since there seems to be considerable negotiation of this agreement already going on. I just want to get a sense of the basic principle here. What looks like happened is that you were negotiating with whalen and came up with a settlement agreement which in some small part was at variance with city ordinance. Is that right?

That's correct. In those two regards we talked about.

elman: THE HEIGHTS Beyond the building heights.

Yes.

Spelman: You -- so why is that a problem?

It's a problem because there is essentially zoning regulations, they exceed the allowable height of structures in and because council is only approving or considering a settlement agreement as opposed to a zoning change. We're not posted for a zoning change and the notice in requirements of state law would have to be addressed.

And if I can add, councilmember, it goes a little farther than that. There's a concept of something called contract zoning. Zoning being a legislative action of this council. And the prohibition, there's a prohibition against contract zoning, which would be this body agreeing in advance that when they exercise their legislative power for zoning, they would do it a certain way. Th can't do that. So because these two things were determined to be within our zoning regulations, they have to go through the zoning process as such and can't be the subject of a agreement. It's not just that we're not posted, it's that they can't be.

Spelman: Part of it is the posting but part of it you didn't have the authority to negotiate away the city ordinance.

That's right, council as a legislative body would have the power to do it but only in the zoning process.

Spelman: So we could in an alternative universe with alternative posting do what you are talking about,

and you don't have the authority to recommend to us that be part of the settlement agreement.

I think that's a fair statement, yes.

Spelman: Thanks.

Mayor Leffingwell: Councilmember morrison.

Morrison: I guess I want to make two comments. One, I think that we as the ci need to take a lesson learned from this and that is that during the -- because it was such a long issue for the neighborhood and they have been very involved, once it got down to elements of what were going to be considered in the settlement agreement, i think in the future just getting ideas about what to coider in the discussion from the neighborhood that's been so impacted would help us perhaps achieve a more -- a settlement agreement that sort of answers the concerns in a better way. And let me just ask you one question. We've been talking about are we opening up negotiations or not. We're having to remove something because of a legal technicality and they've asked for a year in return. That makes sense. We're also talking about the possibility of including a change that gives them opportunity to take advantage of changes in code that would benefit them regarding solar panels. Would you say that's a get on their side?

Well, it's a get from where we are now, I would say.

Morrison: Right.

Like I said, the parties had negotiated and we thought we had that already, but yes.

Morrison: Okay. Because they are getting the year in return for losing something is what we're talking about. I'm just saying that if we're opening it up, and I brought up those two other issues that would be helpful, I would like to say it might make sense to consider something in return for providing that benefit beyond the extra year.

First I want to address your first point, which is a policy point and appropriate for council, that is that we should be meeting with neighborhoods in advance, and the one thing that I was really proud of in this process, I did make that call to the neighborhood and to you and with land use and planning did have that meeing in your office and we did get parameters outlined and we actually met the goals of those parameters, the parameters back in august when we met in your office with representatives of bouldin creek neighborhood. I feel like we followed that policy so there is no lesson to be learned, this could serve as an example. You notice, at this point i think we should just -- i guess, again, I'm going to need to be tranquilized so we can just vote on this thing and move on. I don't view it as a get. If you want to drop solar, fine, we'll do without it if that's the initiative you are taking, and I respect that if you want to drop the solar. We don't need to do solar. We are trying to put something in given the current technology, but if you want to drop solar from this, then that's fine. We don't need to get anything at this

point.

Morrison: Okay.

Although our preference, of course, would be to have that flexibility since we're trying to achieve some green initiatives here in the city of austin. I think that would be part of it downtown in a prominent location on barton springs.

Morrison: Thank you, whalen, and I would just -- that's all. I just want to comment to council -- I mean to council and staff that while there was an early discussion, there were additional elements thrown out there during the negotiations and so I would really like to reiterate what I said, and I think that the -- the staff interaction with the neighborhood sometime during the fall would have been -- would have helped us come to a better conclusion. And then just secondly I would like to note that there's nothing in the agreement that precludes them using solar panels. It's just about whether they are going to get that extra three feet or not. They can build a building that's three feet lower and put in three feet of solar panels. Thank you.

Mayor Leffingwell: And i would just respond to your comment about the get, I don't think it's a get for them necessarily. What I think it's a get for us and for the community of austin as we try to advocate for solar whenever and wherever we can get it. So that's the way I would say that. So I would entertain a motion to approve the settlement agreement with the change to number 1, increase the time 5 years, and 2, to add a statement to the effect that the code is changed to include solar panels installations along with chimneys in the same category with chimneys, then they would be -- the applicant would have that additional entitlement.

Some of it.

Mayor Leffingwell: Moved by councilmember riley re. Seconded bicameral. Is there any further discussion? Councilmember spelman.

Spelman: Would you consider it a friendly amendment that if at some future time the code were revised to allow for solar panels an additional three feet, that the site plan, period, would go back from 13.5 to 12.5 years? That would keep us on an even keel.

Mayor Leffingwell: Well, I'm not the maker. I wouldn't support that. Councilmember riley.

Riley: Could you --

Spelman: Right now we've got you can't build solar panels, you don't get the additional three feet and you get 12.5 years. whalen has asked for an additional year as compensation for the you can't build the additional three feet and I think most of us believe that's reasonable compensation. So a reasonable motion seems to be you don't get the three feet, but you get an extra year. If, however, we're going to give you the extra three feet at some point in the future, you don't get the extra year. That's all I'm

suggesting.

Riley: And I would -- comment on that? Is there going to be a legal issue with that?

I would ask at least one question for clarification. The way I heard it stated that if the code is amended to allow that. That would be the triggering event. At least for clarification, perhaps it would be better to say and if the landowner takes advantage of that, then it would be the trigger. At least that one question, but I'll -- more than that I'll ask Dana if she has any thoughts.

No thoughts other than to make sure I understand what the motion is, which it would be approve the settlement with 5 years. The removal of the paragraph that allows the additional three feet for solar panels, modification of the rooftop structure height on tract 2, the mf-3 down three feet, and then addition of a paragraph that would allow the developer to take advantage of any code changes that with regard to the solar panels rooftop height.

And then I think what is still proposed as a possible friendly amendment is that but if that -- if the code is changed and to allow the solar panels at the increased height, and that change is taken advantage of by the landowner, then that is a trigger for then decreasing the extension of the site plan from 13.5 to 12.5. So that last part I was just talking about, I believe, mayor, still is a proposed in the amendment.

And Michael Whalen on behalf of the ppt -- I mean think why the mayor said he wouldn't support it and i wouldn't it turns out it's a disincentive to do solar. You have just created an automatic disincentive. You will lose that year if you start pursuing it. You want to incentivize not disincentivize.

Spelman: By giving you a extra year.

Right.

Spelman: Get back to the original agreement. If we cure this problem, what's wrong with 12.5 years?

Because we won't be able to to cure the -- the agreement says we don't get to take advantage of new rules and ordinances that are passed that are to our advantage. We are stuck with the rules in place in 2006.

Spelman: I was under the impression that was part of the motion was to allow you to do that.

Only with solar. It's not with everything else. If there are new rules and regulations -- so chapter 245 of the local government code has that provision. We are specifically not allowing that here in this particular case. That was the reason why.

So you withdraw the amendment?

Mayor Leffingwell: So the friendly amendment proposal is withdrawn. In that case, all in favor of the the

motion -- do we have clarification on what the motion is? All in favor say aye. Aye. Any opposed? That passes on a vote of 6-0, mayor pro tem off the dais. That brings us to our 12 noon citizen communication. Sylvia marroquin. Council, the first speaker sylvia marroquin, could you raise your hand? Are you in the chamber? Has requested, contrary to council rules, that another person be allowed to read her letter for her. I'm inclined to grant it, but I want to make sure it's without objection on the council. All right. Go ahead.

Thank you, mayor. I'm [indiscernible] and I'm representing today river bluff neighborhood association and govalle neighborhood planning team. Thank you for doing this. We're all so used to public speaking and we don't realize a lot of our neighbors have a hard time with this. So we're here to talk about the outdoor music venue permitting process. And so I'm going to read her letter before I make my statements. Dear city council and city manager. I'm here to speak about my neighbor, sustainable waves, who has been granted an outdoor music permit. Earlier this year in march during south by southwest they hosted a red bull party. The party was held from wednesday to saturday nights. For the first three nights they had bands that played until 5:00 a.m. The volume was so loud that my neighbors blocks away campaigned about windows rattling -- complained about windows rattling. For neighbors close by the volume was deafening. The closest neighbor, a woman IN HER 80s, SAID THAT THE Second night of the noise she had to go to the hospital to get something for her nerves. Another neighbor checked into a hotel so that they could sleep at night for the next few days. When the city code inspectors , they were greeted at the door by city of austin police officers who were working security. They displayed a permit that allowed them to continue until 5:00 a.m. I want to you know that the city of austin does not issue permits past 2:00 a.m. The ode inspectors left in disbelief. They had never seen a sound permit that allowed music until 5:00 a.m. City codes allowed music until midnight except during south by southwest when it's at 2:00 a.m. It was not until saturday night that the city code enforcement shut them down at 2:00 a.m. In our search for some answers, the permit department denies having given the permit until 5:00 a.m. The police department denies having changed the permit, which leads us to believe the permit was altered by the applicant. That was also the only response that the permit department offered as an answer. The problem is that if had violated city ordinance and fraudulently changed a permit, why were they given special treatment and another permit for an outdoor music venue during halloween despite all of our objections. There should be penalties for forging permits. Then after they were -- then after that they were rewarded with a permit during halloween concerts for two nights. They again violated the sound ordinance on both nights. The poor woman who suffered so much during south by southwest was again assaulted by the noise coming from the stage. 50 Feet from her home. These people have little or no concern for their neighbors and do not obey the city ordinances unless they are forced to. I ask you that these people not be granted an outdoor music permit -- [buzzer sounding] -- and the whole permitting process be redone to solve the ongoing problem for residents in this area. Signed sylvia mayor confine.

Mayor Leffingwell: Thank you. And the next speaker is daniel llanes speaking on outdoor music venue permitting process. Three minutes.

Yes, sir, as this letter indicates, this last year at south by southwest -- during south by southwest, we were inundated by outdoor music venues. Many illegal and most all of them ill enforced. If, so at

halloween this venue, we got notices of this venue, we protested and we found out that the -- that the new ordinance for the music venues and for the permits is really not -- it's ill crafted. It's kind of backwards. When you go to -- if you get a notice of a outdoor music venue permit, you are given a form to be a interested party. They will still issue the permit and then there's a hearing. The city council will hear this, this particular issue on sustainable waves, but today we're coming to you as residents of east austin letting you know that there's a huge problem in the permitting office with the way these permits are issued and the review. There is no regulation for parking, there is no business in the city of austin that is not required to have parking for the kinds of businesses that they do. Yet the outdoor music venues have no regulation of this. This venue and others during south by southwest brought as many as 2,000 and 3,000 people into our neighborhoods. There is nothing for the parking. So what we're asking the city council is for a moratorium on issuing permits for out door music venues for east austin. Now, my neighbors and the rest of the city, if you all -- if this is a problem for you, i suggest that you get with us so that we can coordinate our efforts. We're not trying to stop music, but what we're trying to do is prevent another form of pollution that east austin has had to endure over the years. We had the tank farms, bfi and 18-wheelers. Now since we've cleared that out here come a lot of people from other parts of town wanting to bring noise pollution to our area and we are asking the city council to consider a moratorium on this. And we would love to be at the table to really fine tune the -- the music ordinance so that we all can create a win-win situation. Thank you very much.

Mayor Leffingwell: Thank you, daniel. Next speaker is susana almanza and the topic is same.

Mayor and city councilmembers, good afternoon. I'm susana almanza with people organized in defense of earth and her resources. We think that this being a new ordinance, we do need to look at it. The process for appealing or speaking about an issue coming into your community is really backyards. It's after the fact and it reminds me of some of the federal policies. You know, you've got to cite the polluted industry and you file a title 6 appeal afterwards. You don't have a voice before and I think this is backyards and we need to be looking at this particular issue. The other issue is that in this whole ordinance there's nothing about traffic. If you look, if you go down the days they are having these venues on cesar chavez, it is a residential area, it always has been. That's been the major problem having it rezoned commercial service mixed use. You can turn it into mixed use, but since it was all residential, you don't have the parking available along these streets. So what happens now when they had the event, people were parked down cesar chavez on both sides of the street north and south. It creates a traffic, health and safety issue. And then they go all into the community. There is no particular place for these kind of venues to be held. And we're beginning to see that a music venue district is being carved in east austin. That's how it begins, you know, they come in with the condos, they come in with the studios, and now they are coming in with the music and it's coming throughout our community because we had a lot of industrial zoning before we changed it. But still these venues are able to fit into the cs-mu, and so now we're being inundated with all these different permits that are coming into east austin. And we have -- there's places where they can have their music. We have fiesta gardens, barely used four or five times out of the whole entire year. But again, the who receives needs to be looked at -- process needs to be looked at. We're in agreement a moratorium needs to be issued so we can look at this particular ordinance and to see how we may be able to make some adjustments to this particular ordinance, and definitely looking at the process of how that ordinance is being done. And we also know

that we need to have those people who are going to make those decisions go out into the neighborhood, not just look at a map and say okay, it's zoned commercial service mixed use, but to be able to go and look and see that residents live in this particular area. This is residential and a lot of that properties have been down zoned and we have more residents in that area. Just to be able to look and make those decisions, you can make a lot of mistakes. So you really need to go down that criteria and be able to really see what these venues are being asked. [Buzzer sounding] so we ask for your assistance in this matter. Thank you.

Mayor Leffingwell: Thank you. Councilmember morrison has a question for you, I think.

Morrison: Not for suzanna. I wanted to ask some questions of staff. I want to remind everybody how we got there. That was last spring and there was a live music task force. We had a lot of trouble in the community having productive conversations to address the compatibility between music venues and existing neighborhoods, both of which we want to support in the city. We came up with this -- we did get a good coverings going and we came up with this ordinance which I know daniel mentioned it was ill crafted. And I would like to disagree respectfully with that and say that we have not yet really fully implemented all the concepts in the ordinance and we're working on that. So that's what I wanted to talk to you about, guernsey, and ask you, i know that one of the very important concepts in the ordinance is that in giving the permit, the staff, which is an administrative job, has the discretion to look at nearby, adjacent land uses, if there are existing neighborhoods next door, what kind of mitigation there would be, and actually impose additional restrictions on hours and decibel levels. And that was really important because we wanted to make sure if there were music venues moving into established areas that they were good neighbors, so changing people away. Tell me and talk about whether we've got that implemented yet or what the time line would be for using that discretion.

Let me talk about the one that seems to be -- one they were talking about, the sustainable wave. First the permitting now has a separate certificate that's displayed on the property. And it's actually changed from what it was perhaps last year and is one where if you start trying to alter it to, say, scratch out the time from, 00 or something like that, it will actually destroy that permit. It's rather fragile in that aspect. So it's going to be harder for someone to alter it to be forged in that respect. My department is also now working more closely with and code enforcement on these issues. In the case of sustainable waves, we did contact a.p.d. And code enforcement to make sure all of us are on board at the same time. It appears that they did exceed the decibel level, the particular one you will hear the points of that on sustainable waves. So when the appeal comes before you, we will make that known that we did send enforcement out, they did register it exceeded the decibel level for an event around halloween. We do look at historical information. Unfortunately when it came to in particular permit, we didn't see a pattern of violations as being called in. And I think it's important for staff to make sure neighborhoods are aware that if you hear a complaint that you need to react to that and call that in. So when staff comes bck and looks at these things, we have some record of complaints. Also design. We are working with channel 6, a acoustical person if they think there is an issue with sound. I want to talk about a separate subject quickly that's directly related to this issues, but we also issue temporary permits. Aside from christmas tree sales and pumpkin sales and occasional church revival or something like that, a temporary use permit is issued to an individual to have an event. Not all events have outdoor permits that are

necessary. With those types of permits that are issued in tandem with these events and the outdoor music venue is a program that's good for the year, temporary use we are mits come up as certain events occur. So that's particular permits I've asked my staff to look at those, in particular about parking, make sure we have adequate parking now. Whether it's an event that occurs withdoor music or not but we're not having enough parking to cause parking illegally. That's something relatively new.

Morrison: When somebody is getting outdoor music, the permanent one, the year-long permit, do you think about parking or how does that play into zoning issues?

That wasn't doesn't play into it as much as with the temporary use permits. Two separate permits, two separate processes that go. In this case sustainable wave did provide some parking as opposed to last year they provided no parking. We are looking at the parking issue, and typically those come in about the same time. We don't issue a temporary use permit that goes on for a year. Usually they are more for the event that occurs. We're available look at those things about get in and out as well as issues of fire and fire safety to make sure there's adequate exiting and that emergency apparatus can be brought in to treat those that may need that during that event.

Morrison: Well, could we have the situation where somebody applies for an outdoor music permit and they intend to put up -- you know she just have the band plug in and play on their parking lot? I'm wondering if that sort of -- that would be then a continual parking problem as opposed to -- why would that not happen?

Well, there is a possibility that could happen, but they might either take a rather use application or actually amend if they have a site plan, amend their site plan or come in for a more formal exemption application so show they are actually going to have in as an ongoing event all year long. Show where their band shell is or the platform. Some of those things when we had acl, there is a gentleman that wanto take out an outdoor music venue permit but didn't have the building permits necessary to construct the stage, didn't get the necessary variances from parking requirements and may have been also blocking a fire aisle. So there re a combination of permits. It's not just a single item. We're gearing up by south by southwest that we know exactly what's happening. This year we'll hope to do better than last year as far as making sure we're no compliance with all city ordinances.

Morrison: If it's going to be an ongoing outdoor use, we are asking them about how the sound is being projected so we're looking at what is your stage plan and I would assume that if they didn't have a permit for the stage, that would trigger another question from your staff.

That's correct. We are looking at how the stage or how the shell is oriented because that makes a tremendous difference on how the sound is transmitted throughout the neighborhood. The permits themselves aren't necessarily limited in the sense I could tell you what night you can operate, but certainly we've had agreements that have been -- already been made between neighborhood organizations and particularly venues to even further restrict the hours shown on here. We can restrict the size and the capacity of the outdoor music venue. That's part of the criteria that's reviewed. The proximity. We look at what's the adjacent land uses are. We look at the sound mitigation, if they can put

in baffling or some attenuation walls. Additional limitations on hours. Again, we need really the community's help if there is a problem with an establishment, call 331 and make it an anonymous complaint and that will become some record for us to look at.

Another question, because with land use and planning do because -- because we do have this perhaps not completely simple system or process in place where you have to register as a interested party before the application goes out and then appeal it, is your staff reaching out to the folks that have registered as a interested party before the application is approved so that they can understand the concerns that people have?

In particular, I actually had quite a long discussion with sylvia and daniel and suzanna and talked further with daniel and I think we need to change our form we make sure when with your send our notice out you can registered as a interested party and what that means. Just the issue of registering as a party isn't good enough. Have you to actually appeal the application once we issue it. And so it's actually a two-step process. One you have to register as a interested party, and two, you have to appeal. My staff, we need to do a better job of putting that on the notice we send out.

Morrison: Right. And I guess to the point that I was trying to ask is once somebody has registered as a interested party before the process is -- before the application is approved, is your staff calling that interested party to say what kind of concerns might you have so that we could maybe understand the particular situation?

I don't believe so, not just on this application but on high plan subdivision type applications. Generally staff does not contact the interested party. Usually it's reverse. They contact us if they have a question about that particular permit. Once the appeal is filed, we would probably follow up and make sure they are there the day of the hearing. But no, typically staff does not contact all the interested parties to seek out their --

Morrison: And I guess my thought is that there could be some god information shared ahead of time to take into consideration. So I understand it would be a resource issue for staff and there's no requirement for staff to do that. I wonder if we could suggest on the notice in terms of the interested party description that they certainly have the right to call staff and express concerns before they have to get to the appeal. Because I think that could help us solve some of this.

We certainly have a phone number and name they can call. We can clarify they have the ability to provide information to staff.

Morrison: Okay. great. And then the other issue that was brought up was that there does appear sort of a surge in applications right now and there was a request for the m word, the moratorium. But my concern is to make sure we get our process, you know, really with fidelity and as we conceive up and run to go give it a try. And do you feel like we're there now?

I think you'll see a lot more appeals this coming year. And so I think you have moreen more

neighborhoods are talking to each other about what they can do and the concerns they have. I know just in the east austin area of our city there are a lot of neighborhoods talking about again concerns about how they can work with property owners. I think daniel is right, we've had some neighborhoods really sit down and talk with different venues about what they can do to improve the situation and to be good neighbors to both -- both sides. But I think there are going to be some cases that you'll be seeing that will be brought for you maybe not so much about what will happen in the future but maybe about past behaviors that have occurred and they've experienced on those properties where there may not have been as much willingness as you might see today that the ordinance forces and those are being brought to you.

Morrison: Yeah, great. And I appreciate that because I think it's going to be the idea was to promote the conversations to work it out and so seeing the appeal isn't a sign of success.

No.

Morrison: When there's no apiece, that means we're having right conversations.

Right.

Morrison: Thank you for your help with that.

Mayor Leffingwell: Thank you. Next speaker is lisa wilson. Lisa wilson. Topic is the animal shelter.

Good afternoon, mayor, mayor pro tem and city council. As a citizen of austin, i attended the animal advisory commission meeting that was HELD ON DECEMBER 7th. And the topic was off site adoption for the city shelter animals. The operation report for town lake animal center for the fiscal year ended september 2009 indicates that the city performed 4,923 animal adoptions at town lake, but they also killed 7003 animals. This result is not acceptable and the city must do everything possible to increase the live outcomes at town lake. We know the city council is very supportive of increasing live outcomes and to increase live outcomes of animals the city must increase the number of adoptions at town lake. Just so I'm clear, I'm not speaking to the transfer of animals to other rescue groups to perform adoptions but to the actual increase of adoptions of animals that town lake is responsible for daily. One proven way to increase adoptions is implement a robust off site adoption program. Many citizens spoke at the meeting I attended december 7th and gave statistics from several other using off site adoption programs with great success. As part of their effort to create an implementation plan for the city council, the animal advisory commission and city staff have been holding a series of meetings seeking input and proposals to the city community to increase live outcomes of animals at town lake. At their december 7th meeting, which discussed off-site adoption programs, the animal advisory commission and city staff received a promising proposal for austin pets alive. Under the proposal austin pets alive would create and run off -- four sights for dogs and cats. This program should result in adoption of additional 1200 dogs and 576 cats from town lake. While the primary purpose of an off site adoption program is to get you want out animals, it serves as an important outreach and education and public awareness program for the city. If it's done correctly, an off site adoption program will drive additional traffic to the city

shelter. As a concerned citizen, i would like to see improvements in reducing the high animal kill rate currently taking place at the austin shelter. This could be achieved by working with the community, austin pets alive and town lake animal center. I'm very hopeful that the implementation plan that the council directed -- [buzzer sounding] -- be prepared by city staff and council with austin pets alive be used. And I also wanted to thank the council for all your support and for working towards this outcome. Thank you very much.

Mayor Leffingwell: Thank you, lisa. Next speaker is richard troxell. Richard troxell. Topic is homelessness in austin. Why see richard in the chamber. We'll go to paul robbins. Speaking on the ever popular city issues.

Mayor, may I -- it's popular to some people. May I transfer this time to item 36?

Mayor Leffingwell: Certainly.

Thank you.

Mayor Leffingwell: Take care of moving him to item 36. The next speaker is erika gonzalez. Topic is close pure casting now.

> Good morning, mayor and city councilmembersnd I come here today to remind you and let you know that we have not forgotten and we are still demanding the relocation of pure casting located on the corner of robert martinez and east fourth street. This facility uses metals and various chemicals that are contaminating the air right across the street from zavala elementary school. In the christmas spirit, I ask that you make our christmas wish come true and that you listen and pay attention to what I'm saying. I have here with me five -- 100 cards signed by community members. University professionals, professors, university students, aisd youth, local artists, members of neighborhood associations. We have the support from the sierra club who is here today, has our support, and various people who are affected by this facility. And we ask that you make this your new year's resolution, make our christmas wish come true and shut this facility down. It's been almost two careers that we've been coming to you. You've heard from scholars for justice, you've head results from our survey where almost 100% of the community agrees affordable housing should be built there. They all agree that it should be relocated. The money is there to relocate it. The land is there to relocate it. And we want a healthier environment for our youth and our community. And we've also heard from u.t. Students and even yale carmen who used to work with tceq who has stated that this is a very toxic facility and not healthy for the community. And I have here the 12 days of christmas in the eyes of a child attending zavala elementary school. On the 12th day of christmas, pure casting gave to me 12 months of waiting, 11 chemical burning, 10 fingers snapping, nine children crying, eight teachers coughing, seven particles blowing, six councilmembers lagging, five lame excs, four dirty elements, three too many trucks, two pleading parents and a very unsafe community. So hopefully next year we won't have to come here again and hopefully the 12 days of christmas will look a lot better. Thank you. [Applause]

Mayor Leffingwell: What were the six councilmembers doing? [Laughter] okay. All right. Next speaker is

gabrielle padilla. Close pure casting now. He's not here. So then the next speaker is frances martinez.  
[One moment, please, for change in captioners]

to get

to get them prepared to the pre-k and that had ceased already. We would like you-all to look into it to see if we can have our children to return back to the little learners program. Also, the eastside story that is functioning right now in the elementary schools, right now there's a program is for elementary school. They serve 30 students and they have a waiting list to help them with their homework, to help them with math, science and reading. However, they are underfunded, if you-all can look for some funding for this coming year that would be sometng that our children can look forward to in going after-school program and also can help the parents of these children. So we have these two programs if you would like to see -- would like to see funded. Also, we have the pom park, the pom park that needs a lot of attention. This year I don't believe it had a port a potty there. At least we had one last year and we need for you to be open for more hours. We need a bathhouse, and this, again, we are asking for this for the coming budget. Also, in our neighborhood right now -- of course it is an older neighborhood here in east austin. We are having a lot of new houses and condos and what have you. We are being cited by code enforcement because we have carports that have been there for many, many years. They're either too close to the other neighbors or -- and we're being cited with that, among other things like that we are too close to the next neighbor that has been there for many, many years, and now we are asked to -- another code compliance, and like I said, this is an old neighborhood and we are needing assistance because we do not have the funds to get enforced. Also, just one more here. We still have the horses on east 4th street and adiac. no one has done nothing about it. They do block the street, 30 00, and we have to support all of that and that is terrible to have that in our neighborhood. For many years I have come over here and no one has done anything about it. And again, we do support the moratorium for the outdoor venues. Thank you. thank you, frances. Last speaker is marcelo tafoya and his topic is the lulac convention coming to austin. Welcome, marcelo.

Thank you, mayor and council. Thank you for permitting me to speak. First of all I want to wish each and every one of you a merry christmas and happy new year. Most likely I'll be -- you won't be here during that time and with the schedules, you won't be here. Enjoy it with your families and enjoy the fact that we're in a beautiful city and it deserves a lot and receives a lot. Thank you very much. Most of you were here, some of you were not here, when i came a couple years ago for our lulac state convention. This was one of the first we had in many years in austin, and we're going to have it on june the 2nd through the 6th. At the at the austin ailt airport hotel. We were going to do it at the grand plaza but we were having more than we thought we could handle so we had to move to a bigger venue. My council who bidded for it is council 4858 and we're going to have a music venue because for many years lulac has gone away from the music venue and we're getting older and we still remember the walz, so I'm going to have to bring back some of the music before it goes too far, and some music for the youth. So I probably will be coming back to ask for your support on that. But in the meantime, I'd like to invite you-all to come to either one of those days. You will find out we have speakers, we have forums, we have issues that we bring before our state delegates, which average about 700 delegates plus the individual companions. We expect between 2 and 3,000 people to come during that week, and then we'll have

other dignitaries come to speak. We usually invite the governor or governor to be, et cetera, et cetera, et cetera, to come, and other dignitaries, so it's a fun day. It's not really fun. It's more like work, but in the meantime you get to see a lot of individuals that you've known for many years, and by you-all coming out you'll understand the project of lulac being primarily education is our main emphasis, and secondary, of course, is civil rights. So I do invite you-all, first chance you can, come on down. You don't need to have a password or a special invitation. Just come on down, okay? So thank you very much and i appreciate your time. And have a good holiday.

Thank you, marcelo. Those are all the speakers that we have signed up for citizens communications wh are in the chamber, so, council, without objection, the city council will go into closed session pursuant 071 of the government code for consultation with legal council to take up one item, item 49 concerning at&t's claim against the city for property damage. The council will also go into closed session pursuant 086 of the government code, which allows discussion of competitive matters of a public power utility to take up one item, item 48, concerning matters relating to austin energy's renewable generation resource planning. Is there any objection to going into executive session on the items announced? Hearing no objection, the council will now go into executive session.

Mayor Leffingwell: If i could have your attention, we are out of closed session. In closed session we took up and discussed legal issues related to item 49 and item 48 related to competitive matters of a public power utility. No action was taken. So we still have two items remaining from this morning's agenda. We'll go ahead and take up item 26 first. Item 26 was pulled by councilmember riley. Who is not here.

Do we have any other items, mayor?

Mayor Leffingwell: Well, the other item he pulled also. Item number 26, councilmember riley, you pulled, so you have the floor.

Riley: Relates to nine-month contract for implementation of the east 11th and 12th street redevelopment program. The only reason I pulled it, just recently we received the results of the audit with respect to the a.r.a. Before we invest additional money there, I just want to make sure going forward we are going to be mindful of the recommendations of the audit that we just received. And because there are a number of recommendations in the audit that would impact the work that would be funded with this money. And - - such as the creation of a detailed implementation plan and so on. All the other recommendations in that audit. And I just wanted to make sure as we authorize this money that -- that we are mindful of these recommendations and that they will be immaterial -- we will be implementing these recommendations as we go forward. [01:12:01]

Mare, council, margaret shaw. Yes, sir, we can assure you that the negotiated contract the result of this action item will have concrete and measurable deliverable products that are tied to the recommendations of the city auditor's report and will help us move forward with identifying roles and responsibilities within the corridor. We have two major partners, the urban renewal board and the austin revitalization authority t audit makes recommendations as you recall on accounting and performance controls as well as developing a new vision for the corridor and moving ahead with an implementation

plan. These funds will be used to help us develop those products. And as well we look forward to having public input. The urban renewal board has called for spring and summer sessions for a joint session with the board and the city manager's office to hear what the public and the surrounding area would like to see as a vision.

Riley: And will a project coordinator at nhcb be tasked with monitoring the execution of the plans in this area?

Yes, we do. As you recall, the auditor's office I was commended the neighborhood housing staff on their compliance to vision. So we have several folks that will be monitoring that and then I'm accountable as department director for monitoring that.

Riley: Okay. And then I -- one of the recommendations was that a project champion be pointed at the cmo level to oversee the implementation. And I'm not sure where we are on that.

Yes, sir, that's been -- the city manager ott appointed anthony snipes as lead with mike McDonald as the historical memory and institutional memory for that. So I report regularly and my snipes and MR. McDONALD ON PROGRESS IN The corridor.

Riley: Okay. Okay. Well, I just wanted to make sure that we are mindful of that audit. So with that -- with those assurances, I'll move appro

Mayor Leffingwell: Hold that thought. We have folks signed up to speak. First speaker is stewart king. Stewart king in the chamber? And eleanor van arsdahl. Is eleanor here? She's not in the chamber -- you are stewart king?

No, sir, mayor, my name is greg smith. I'm interim president of the austin revitalization authority.

Mayor Leffingwell: Do you want to speak first?

I just wanted to let you know we were just here for questions. The folks who signed up this morning have since gone and they just wanted to raise their support for the item before you.

Mayor Leffingwell: Okay, so let me just call their names. Eleanor van arsdale, charlesrdy, lisa byrd, greg smith, ruth parcel, and the rest are signed up not wishing to speak. Maureen mercado, carmen noriega, sanford lyles and john patterson. It's my understanding no one else wants to speak. So councilmember riley moves approval. [01:15:26]

Second.

Mayor Leffingwell: And seconded by councilmember cole. Is there any discussion?

I have a comment.

Mayor Leffingwell: Okay.

Cole: I would just like to echo councilmember riley's concern the pointed that we implement the recommendations of the audit, but also -- and I'm pleased with staff for going a long way in that regard and I'm sure that you will continue to do that. But I want to make clear that the audit that was conducted was done by the city auditor and that was done in con jennings with neighborhood housing staff -- conjunction with neighborhood housing staff. We have an agreement with and the urban renewal agency and the city that's a complicated tri-party agreement that will be up in october. But the audit -- prior to the audit, we made a decision to cease all transactions with until we got the results of that audit. And that audit did not show any embezzlement, any fraud, any collusion. It just basically pointed out several internal control weaknesses that I think you would find in a number of companies including many, many nonprofit agencies. And probably the most important point is that a.r.a. Has had actual independent auditors, and those independent auditors outside of the city whom they didn't have any agreements with have always shown them to have an unqualified opinion, meaning that basically other than a few management level comments, they are fine. So I don't think at this stage that we have any reason before us now to be concerned about this transaction, and that's why I second the motion.

Mayor Leffingwell: Any further discussion? Councilmember spelman.

Spelman: Show me recusing myself on this item, please.

Mayor Leffingwell: All in favor of item number 26 aaye. Aye. Any opposed? So that passes on a vote of 5-0 with councilmember spelman recused and mayor pro tem off the dais. And that brings us to item number 36 also pulled by councilmember riley.

Riley: Quite. -- Right. Thanks, mayor. Item 36 is -- is another toilet item. I couldn't let another toilet item go by without calling attention to it and causing a brief discussion. [01:18:06]

Mayor Leffingwell: Thank you.

Riley: I knew the council would appreciate that. And in fact a few questions were raised about this particular purchase. And first -- could I ask -- i believe there's at least one citizen who signed up to speak.

Mayor Leffingwell: Yes, there is.

Riley: Could wedding and get those comments?

Mayor Leffingwell: Paul robbins. So paul, you are signed up for three minutes. Okay. So you -- so you tricked me. You thought -- I thought you said can I speak on this item instead of citizen communication.

But you wanted to roll your three minutes into this.

Yes. I probably won't use them.

Mayor Leffingwell: Highly irregular, but if there is no objection, council will give you six minutes.

Thank you, mayor, council, citizens of austin. I dono carrierringconnect 57600 so the manufacturer can screen out unintended defects that may happen in the real world. Council, we don't know how well these work. They may fail miserably, they may top the chart. But given the amount of money and the past history, we should run our own tests before purchase. If you ignore my caution and these prove not to work well, don't say I didn't tell you so. It would not be the first time. [01:22:10]

Mayor Leffingwell: Thank you. There are no other speakers signed up so councilmember riley, did you -- go ahead.

Riley: I'm sorry.

Mayor Leffingwell: Did you have a question for staff?

Riley: I was wondering if we could get answers from staff to concerns that have been raised. In particular, the basic concern, you heard robbins, that we don't have -- consumer reports did not look at these and i understand these have been , but there may be some grounds for questioning weather that really represents a fair sampling of these toilets that the customers will actually be receiving. So my question is what mechanism can we have in place to ensure if those don't work as well as we would like them to, that we -- that we are able to -- to make some adjustments before we spend 24 million that we're currently authorizing for these toilets?

Austin water. The contract is set up, it's not a contract that requires us to buy all the title, that it's a requirements contract that we can halt the purchase of these toilets at any time along the way over the next two years. I think councilmember, one of the things that I will do as a followup to this is make sure I instruct our conservation staff, daryl slusher, my assistant director, that we closely monitor the startup of the use of these new toilets, do some phone surveys with customers, and if we see a pattern of problems or quality issues, that we would halt the contract. There's no legal requirement that we couldn't halt it at any time and not purchase those toilets anymore and retool the approach from there. I think that would be one approach that we could take to this.

Riley: Okay, so in worst case scenario, these toilets don't work very well, and after the first few customers have gotten some, we would be able to find that out, to follow up and learn that and we wouldn't need to buy any more of the toilets that would be authorized?

That's right. We could just stop purchasing at any time. There is no requirement to buy a certain number of toilets. It could be anywhere from one to 15,000. We could stop anywhere along the line.

Riley: Okay. Great. slusher may have something to add to that.

Daryl slusher, assistant director. They also come with a one-year warranty and an 800 number the customer can call, but we'll also follow up and see how the customers are liking their toilets.

Riley: Okay. I think that would be great.

Mayor Leffingwell: We can sort of do a stakeholder road test before we get too far into this. Okay.

Riley: With that mayor, with the assurance that we will have some mechanism in place to make sure that these toilets do actually work the way we expect them to, then i would move approval of the item.  
[01:25:06]

Mayor Leffingwell: Councilmember riley moves approval. Seconded by councilmember morrison. Any discussion? All in favor say aye. Aye. That passes on a vote of 6-0, mayor pro tem off the dais. Thank you. So that brings us to our 2:00 zoning cases. Mr. guernsey.

Thank you, mayor and council. Greg guernsey with the planning and development review department. I would like to walk through 00 items I could offer for consent. This is -- there's only one case, the public hearing is closed. Zoning case c14-2009-0071 for the property located at 11606 north ih-35 service road southbound to zone the property general commercial services, conditional overlay or cs-co combining district zoning. We could offer this for consent approval today. On second and third reading.

Mayor Leffingwell: Councilmember shade.

Shade: Sorry about that. I'd like to approve the original recommendation on second and third reading which was at the -- their november 5th meeting which granted the zoning sales but without auto sales or rental. This is something we debated during first reading so i would still like to make the motion that we go back to the zap recommendations and that would exclude auto sales and rentals.

Mayor Leffingwell: So since that's a change, would that be second reading only?

Shade: I'm making the motion for second and third reading.

Mayor Leffingwell: Are you ready for second and third with that change?

Since the ordinance is already written to make that accommodation, we can make that edit to actually prohibit those two additional uses, auto sales and auto rental, and we could have that prepared, ready for third reading today.

Mayor Leffingwell: Motion by councilmember shade to approve the original zap recommendation on second and third reading. Is there a second?

Second.

Mayor Leffingwell: Seconded by councilmember cole. Is there any discussion? Hearing none, all in favor say aye. Aye. Any opposed? That passes on a vote of 6-0. Mayor pro tem off the dais.

Shade: That got me choked up. Sorry.

Let me proceed to the 00 zoning, these are where the public hearings are open or still open and there's possible action. Item number 51, case c14-2009-0031, for the property located at 313 red bird lane, a change to sf-3-co-np. Mayor pro tem I know is absent today and there is a petition on the property. It's not uncommon for council in deference to the absent councilmember -- [01:28:15]

Mayor Leffingwell: Without objection, council, we'll postpone this until DECEMBER 17th. As part of the consent agenda. Applicant's agent and also the neighborhood would like to defer this to next year if that's possible to january 14, 2010.

Mayor Leffingwell: That's our next meeting after the next meeting.

That's right.

Mayor Leffingwell: I have no objection -- any comments, council? All right. As a part of the consent agenda, postponed until JANUARY 14th.

The next item is item number 52. This is to rezone the property located at 201, 205, 207 west fifth street. To rezone the property central business district, central urban redevelopment combined district zoning. It was forwarded to council without a recommendation by if planning commission. The applicant's agent has brought forward some additional conditions. I think you have them on the dais. That additional conditions be proposed by the applicant for a hotel-motel use only. And I'll quickly read these into the record. One, the development of the property may not exceed a floor to area ratio of 12-1. is limited to 8-1 unless the following applies. First, that the development modifications to loading and unloading requirements are outlined in the staff recommendation. B, that the modifications maneuvering requirements outlined by staff outlined in the staff recommendation. C, recommendation in parking spaces outlined in the staff recommendation. D, above ground parking structures are not permitted. All parking provided on the property shall be underground. E, that the design of sidewalks on colorado and fifth streets shall meet the great streets program criteria and ensure pedestrian path way is prominent in all curb cut areas. F, design of the project will ensure a pool and mini deck is located on all or portion of the southern edge of the project at a height no higher than 60 feet above grade. G, that the desi of the project will ensure that the north facade of the project contains architectural delineation between podium taken tower at approximately 40 feet above grade. Such architectural delineation may contain columns and extend vertically 20 feet. H, that the project shall being designed, built and operated to achieve a led silver certification, provided if the project does not obtain the leed certification, the project must be certified to meet the city's two star green builder program within three months of the expiration of the 18-month deadline. And staff will work with the owner on that. We want to make sure that it is addressed if

it doesn't meet leed. And finally, i, building -- or bicycle parking shall be provided in the hotel-motel parking garage. That's what they would offer. We could only do in on first reading if council would like to consider this on the consent agenda. As stated. And let me continue. Item number 53, case korean 0095 for the property located at 1304 and 1308 lavaca and 301 and 303 west 14th street. This is ready for consent approval on first reading only. Item number 54, case c14-2009-097 for the property located at 11005 anderson mill road. The zoning and planning commission recommendation is still pending and won't be considered until february of next year. So staff would request a postponement of this item to YOUR FEBRUARY 11th, 2010 Agenda. It c14-2009-0107. The zoning and planning commission won't consider this until a meeting next year on february 2 so staff would recommend postponement of this CASE TO YOUR FEBRUARY 11th, 2010 Agenda. Item number c14-2009-0108 for the property located at 5925 steiner ranch boulevard to zone gr-co. Planning commission recommendation was to grant the gr-co combined district zoning and this is ready for consent on all three readings. Item 57, c14-2009-0010 for the property at 13505 north fm 620. The applicant -- this case won't be considered by the zoning and platting commission until their meeting on DECEMBER 15th. Therefore staff would recommend this case be postponed to your december 17th meeting. Item number 58, case c14-2009-0129 for the property located at 709 west 22nd street. This is to zone the property commercial liquor sales, conditional overlay or cf 1 co-np combined district zoning. Planning commission recommendation was to grant commercial ligger sales, conditional overlay and we could offer this consent. I don't believe, mayor, you have anyone signed up in opposition to that case. Just making sure. [01:34:32]

Mayor Leffingwell: We have no one signed up in opposition. We have one person signed up in favor.

Thank you, mayor. Item 59, case c14-2009---

Mayor Leffingwell: That was consent on all three?

On three readings. Item 59, case c14-2009-0134 for the property located at 2620 rio grande, zone the property multi-family residence, high density neighborhood plan combined disk zoning. Planning commission recommendation was grant the combined district zoning. This is ready for consent on all three readings. 60, C14-2009-0028, for the property located at 9 niles road to zone family residence, historic landmark. The planning commission recommendation was to grant the sf-3 h combined zoning. 61, C14-2009-0029 for the property locate at gaston avenue to zone family residence, historic residence. Planning commission recommendation was to grant the sf-3 h combined district zoning. 62, C14-2009-0030 for the property at 1510 west lynn street. The planning commission recommendation was to grant the sf-3-h zoning. Item 63 --

Mayor Leffingwell: Excuse me, mr. guernsey. I don't think you said 1661 consent on all three?

Yeah, 60 and 61 and 62 are all consent for three readings. Item 63, consent for three readings, is c 14 h-2009-0032, 1511 press ton avenue. Planning commission recommendation was to grant the zoning. Item number 64, c14-2009-0034 for the property located at 1403 hardouin avenue. Combined district zoning t planning commission recommendation was to grant the sf-3-h. Ready for consent approval on all three readings. Item 65, c 14 h 2009-003, 1801 west avenue. This is to zone the property family

residence or sf-3-h combined district zoning. The planning commission recommendation was to grant sf-3-h and this is ready for consent approval on all three readings. Item 66, case c 14 h 20090036 for the property located at 1109 west 9th street to zone family residence historic. Neighborhood plan or sf-3 np. The planning commission recommendation was grant the combined district zoning and this is ready for consent approval on all three reads. 67, C 14 h-2009-0037, to zone the property family residence historic landmark neighborhood conservation combining district. Planning commission recommendation was to grant the sf-3-hnccd-np and this is ready for all three readings. 68, C 14 h 20090038er 1515 pease road. Planning commission recommendation was grant the zoning and this is ready for consent approval on all three readings. Item number 69, case c 14 h twine-009, located at 2410 jarratt avenue. Planning commission recommendation was to grant the combining district zoning and ready for concept approval on all three readings. Item 70, c 14 h 2009-004, to zone the property family residence historic landmark combined district zoning. The planning commission recommendation to granted the zoning and ready for consent approval on all three readings. Item 71, c 14 h 2009-0041, 1613 pease road, to zone the property family residence historic landmark. The planning commission's recommendation was to grant the combined district zoning. All 72, cas c 14 h 2009-0042, 2603 wooldridge drive. Planning commission recommendation was to grant the zoning and this is ready for consent approval on all three readings. Item 73, case c 2009-0043, 1711 san gabrielle street. The planning commission recommendation was to grant the sf-3-h combined district zoning, ready for consent on all three readings. Item 74, c 14 h 20090004. To zen the property historic residence or combined district zoning. The planning commission recommendation was to grant the zoning and ready for concept approval on all three readings. Item 75, case c 14 h 20090045. The zone the property -- planning commission recommendation was to grant the zoning. This is ready for consent approval on all three readings. Item 76, c 14 h 2009-0046, located at 1508 hardouin avenue. The zoning change requested family residence historic landmark. Planning commission recommendation was grant the zoning. This is ready for consent approval on all three readings. 77, C 14 h 2009-0046, 1403 wathen avenue. Planning commission recommendation was to grant the zoning. This is ready for consent approval on all three readings. Item 78, c 14 h 2009-0048. This is to zone the property to family residence morning landmark combined district zoning. Planning commission recommendation was grants the zoning, ready for consent on all three readings. Item 79 for the property located at 2418 harris boulevard. To zone family residence, historic landmark combined district zoning. Planning commission recommendation was to grant the zoning and ready for consent approval all three readings. Item 80, c 14 h 2009-0051. 2431 Wooldridge drive. The recommendation was grant and ready on all three readings. Item 81, c 14 h 2009-0053, for the property located at 1404 press ton avenue. Planning commission -- to zone the property to sf-3-h or family residence morning landmark. Planning commission recommendation was to grant family residence historic landmark combined district zoning. Ready for consent approval all three readings. 82, C 14 h-0056. Planning commission recommendation was to grant the family residence historic landmark combined district zoning. Ready for consent approval all three readings. Item 83, case c 2009-0057. This is to zone the property to family residence historic landmark combined district zoning. Planning commission recommendization was to grant approval. Item 84 for the property located at 1604 gaston avenue. Planning commission recommendation was to grant the combined district zoning. Ready for consent approval all three readings. And number 85, 2009-0012.02. This is an amendment to the upper boggy creek neighborhood planning area, an amendment to the austin tomorrow

comprehensive plan to change the land use designation to mixed use for the property located at 2500, 2502, 2504 and 2506 manor road and east 32nd street for a tract that's .33 acres. Planning commission recommendation was to approve the mixed land use designation. The related zoning case, item number 86, for the same properties on manor road. And the east 32nd street -- that same parcel. This is to zone the property to neighborhood commercial mixed use conditional overlay neighborhood plan for tracts 1 and 2 a, commercial liquor sales, mixed use conditional overlay neighborhood plan for tract 2 b. Neighborhood commercial mixed use conditional overlay neighborhood plan combining district for tracts 3 and 4. And general office mixed use conditional overlay neighborhood plan combining district zoning for tract 5. The planning commission recommendation was grant the zoning for travis county 1 and 2 and combined -- the Irmuco combined district zoning for 3 and 4, taken go-mu-co-mp for tract 5. Item 87, npa-2009-0012.01. Again, this is a property located in up ther boggy creek neighborhood planning area. An amendment to the austin tomorrow comprehensive plan to change the land use designation on the future land use map from civic to single-family -- excuse me, civic and single-family to multi-family for the property located at 1900, 19 on 2, 1904 east 22 street. Planning commission recommendation was approve the multi-family land use designation. This is ready for consents approval all three readings. Item 88, c14-2009-0104. sh. Those properties located at east 22nd street. Zone multi-family residence low density conditional overlay. Planning commission recommendation was to grant the zoning and this is ready for consent approval on all three readings. [01:46:32]

Mayor Leffingwell: Very well done, mr. guernsey. Just a couple of clarificaions. We're frantically trying to keep up with you here. On item 65, clarify the proposed zoning is mf-4-h? I believe was read in as sf-3.

On --

Mayor Leffingwell: 65.

On 65, we had -- it's to note rezone sf-3-h. I think we had a change and correction that we read into the record this morning in regards to that item. The planning commission recommendation.

Mayor Leffingwell: Sf-3-h is correct.

That's correc

Mayor Leffingwell: And the posting language was corrected this morning.

That's correct. And then mayor, also I wanted to note a correction, item 53, until we have the ordinance on item number 53, that's the -- we could offer that for all three readings.

Mayor Leffingwell: Okay. And there was one other that there was a question about. Item 72.

Number 72 should be sf 2-h combid district zoning.

Mayor Leffingwell: Sf-2-h.

That's correct. And that can also go ahead for all three readings.

Mayor Leffingwell: Right. So the consent agenda, I'll read it back to you, is to postpone item number 51 until JANUARY 14th. To close the public hearing and approve on first reading only item number 52. To close the public hearing and approve on all three readings item number 53. To postpone item number 54 until february 11. Postpone item number 55 until FEBRUARY 11th. To close the public hearing and approve on all three readings item 56. To postpone item 57 until DECEMBER 17th. To close the public hearing and approve on all three readings items 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87 and 88. [01:49:47]

Mayor?

Mayor Leffingwell: Councilmember spelman.

Spelman: I -- I don't know, there's no way to avoid this. You are going to hate me for this, but I would like to pull items 60 through 84 for collective discussion. I don't feel a need to take them up one at a time, but these are all the historic zoning cases. There's a very large batch of them. I would like to ask some questions of staff. We could either do that as part of the consent agenda or we could just pull them out and pass the rest of the consent agenda and then take them all up later.

Mayor Leffingwell: Items -- say again the numbers.

Spelman: 60 Through 84.

Mayor Leffingwell: Okay. 60 Through 84 will be pulled from the consent agenda and we will address the possibility of addressing them collectively as one item later on. And let's see, while we're at it. We do have one person lined up to speak only if there are questions. I just want you to know they are here if you have questions. 64, 65, 73, 74 And 75. So you are so informed. So the consent agenda has been amended to exclude items 60, again, through 84. Correct? Do I hear a motion to approve the consent agenda? Council member Morrison moves to approve the consent agenda he, seconded by councilmember shade. Further discussion? All in favor? Passes on a vote of 6-0, mayor pro tem off the dais. And councilmember spelman would like to address items 60 through 84 collectively.

Spelman: Thank you, mayor. Jerry, remind us, I realize that towards the end of the year because there are tax implications associated with historic zoning that we tend to get more historic zoning cases in december than we do in the rest of the year. Is that right? [01:52:02]

That's correct. In order to get the tax abatement for next year they have to have historic zoning IN PLACE BY JANUARY 1st. Typically in december we have a clump of historic zoning cases every december.

Spelman: About how many historic zoning cases do we look at in an average year?

I've collected data for the past five years and total cases approved in 2004 we had 23. In 2005 we had 10. In 2006 18. 2007 15. 2008 23. Up to know we had 20. 20 More on your agenda. I have three more scheduled next week so --

Spelman: Actually I'm counting 25 if we count through 84, that's 24 cases.

Excuse me.

Spelman: We're looking at more cases today than we looked at in any given year for the previous five years. Is that correct?

That's correct.

Spelman: Okay. Remind me, I realize the rules on historic zoning have changed since I was really familiar with this back in the LATE 1990s. Remind me what the obligations and the tax implications of an historic zone are.

Sure. As a result of some code changes that were made within the past two years as a result of two task forces appointed by the city council, the current tax abatement for an owner occupied house is 100% of the structure and 50% of the value of the land, however, for cases approved today, ever sense 2007, the exemption is capped at the greater of \$2,000 or 50% of the city taxes on the property.

Spelman: So the maximum you are going to get is either \$2,000 or 50% of the total city taxes, whichever are greater.

Correct.

Spelman: Does this tax abatement extend t other taxing jurisdictions in travis county? It does. The travis county also abates owner occupied structures at 100% of the value of the structure tour and 50% of the land. Austin community college does the same t austin independent all three entities do not have a cap similar to ours that limits it.

Spelman: Okay, so, for example, the maximum cap you are going to get out of the city of austin is \$2,000.

No, it would be the greater of \$2,000 or 50% of --

Spelman: Greater of those two. Okay. So if you have a very highly assessed value house, then you might have a cap. The cap would be considerable larger than \$2,000, for example.

Correct.

Spelman: Okay. And there's no cap for travis county, acc or school districts.

That's correct.

Spelman: Do the health care districts acknowledge historic zoning?

I do not believe they do. I don't think they've become a partner in the program. [01:55:02]

Spelman: Because there's no cap, travis county's tax rate is almost identical to ours, then what we're talking about here is a decision that we would be making on behalf of our own citizens for our own tax rate, but the implications for travis county, acc and because of the school districts tax rate is so much larger, also the school district would be considerably larger for them than for us. Is that right? Am I roughly on target here?

Roughly on target. I would have to do the math. I would have to figure out what the [indiscernible] and we have the cap. But you are orrect, those taxing entities all do the abatement based upon the program you all approved since THE '70s.

Spelman: In the neighborhood of two dollars while the neighborhood is 50 cents so about four times. So we're talking about fairly substantial at least potential tax implications here.

Correct.

Spelman: To what can we reasonably attribute the dramatic increase -- looks like this year we're going to have twice -- today we're getting more than we've had in the previous years in two years, but this year looks like more than twice as many historic zoning cases as we had in any previous year.

This year we've had an awful lot of applications. Especially towards the end of the year. Particularly from one particular neighborhood. What we've heard anecdotally is there is an individual who has -- was able to get historic zoning for their house and they are assisting others in filing for historic zoning applications and doing research and presenting that research to the staff. My understanding is that person is charging a fee for their services and they basically have convinced a lot of people in one particular area of town to submit historic zoning applications. And we've had those all in the last half of this year.

Spelman: And they had overlooked my previous house on heart ford road which has no claim on historicness, but you might be able to slip it in under something. So it looks like something is going door to door and trying to sell people onist idea of historic zoning.

I think word of mouth and people are bumping into one another and telling I've done this, I'm getting this great tax break, you should try and get it too. Because they are so concentrated in one particular area,

we believe that's what's happening.

Spelman: Okay. Presumably all these cases have been vetted by our historic landmark office.

All of them have received the recommendation, as Greg said, of the staff, landmark commission and planning commission. The fact that within this neighborhood because of where it is geographically and the age of the neighborhood, we have a lot of older homes that have had people who are important to the history of the city live there. Historically as well as today, of course. So we have checked each one of these cases and made sure that they do comply with criteria and we determined they do. [01:58:07]

Spelman: Okay. They all fit the determined criteria. Is there -- do we have a sense for how much this is going to take off -- how much this particular action today is going to be taking off our tax base?

Yes, we do. I've been working on some math right here at the podium. For the cases that are on today's agenda, the estimated city portion of the taxes that would be abated would be \$63,590. If you add the historic zonings approved up to today and the three cases that I have scheduled for next week's agenda, that is an additional \$51,710. With a total estimated city tax abatement for the year 2009 would be \$115,300. And that would be for the cases approved in 2009, not for the program as a whole.

Spelman: Okay. This is more or less equal to a spending item of \$120,000 for the city. Who are also in so doing reducing tax receipts to the county by roughly equivalent amount and tax receipts to the school district by considerably more than this. Exactly how much we would have to put a pencil to it.

Right, we would have to put a pencil to it. I would say roughly guessing since the county doesn't have the same cap as ours and since their tax rate is roughly the same as ours, it would probably be a larger effect to the county than the city.

Spelman: I asked you a couple minutes ago about the tax implications. Tell me the obligations these homeowners are taking on if they accept historic zoning.

One, one, of course, the city would never approve a demolition permit on the property. So the option to scrape the building and start over does not exist. In addition, any improvements that are made to the property would have to go to the historic landmark commission for approval for something we call a certificate of appropriateness. There is also an obligation to maintain the structure to the standards that we have laid out and the city conducts at least a once a year inspection to make sure things such as the paint is not peeling or the house is not in decay. So they have to keep the house up in exchange for getting the abatement.

Spelman: What do those inspections -- how long does the inspection take? A few minutes, an hour?

Generally because we're looking at the exterior, we do not go to the inside, generally I would say sometimes they are no more than a few minutes apiece. We drive slowly by them, make sure they look okay. If it looks like there's issues, we'll park and get out of the car and look at them. Usually we

approach the owner at the time and say we need you to get a paint job or improve that decaying windowsill. But the obligation to do that is considered a cost of receiving the tax abatement.

Spelman: Somebody actually has to drive by, sometimes they have to inspect the house, look for evidence of peeling paint, perhaps look for evidence of inappropriate remodeling that hasn't gone through city inspection.

Right. We do that every year for every historic property.

Spelman: Any sense how much that costs the city to do that?

No, I don't have an estimate of staff time. We consider that to be part of the routine course of business.

Spelman: It's my understanding we have approximately 500 properties already zoned historic citywide.

I believe the total number is 440.

Spelman: I asked the right guy. I thought it was only approximately 500. You are much closer and I am, although we are rapidly approaching 500 with this action. This is approximately 5%, a little more than that, 6, 7% increase in our total historic properties just with this 25 properties here today.

Correct.

Spelman: Okay. Usually I'm guessing you have applications come from the homeowners themselves. And some of these applications are actually stimulated by the historic officer himself. Under those circumstances, my guess is the homeowner would understand both the tax implications and also the obligations he or she is undertaking that go along with those tax abatements.

Yes.

Spelman: If we're talking about a situation someone is going door to door knocking on doors selling people on the idea of a tax abatement, is there -- my first reaction is to have cause for concern that the homeowners understand the obligations that they are undertaking in exchange for these tax abatements. Is there any reason from your point of view for me to be concerned about those people understanding that they are undertaking obligation?

I believe they are made aware as they go through the process. Although an individual may have done the research and helped the people fill out the application, our hope would be and I believe, I'm not sure, but I believe they would understand that there are additional requirements that go along with that.

Spelman: And does the application itself list the obligations as well as the tax advantages? Or does it just say I'm looking for historic zoning signed joe schmo.

I would have to look. We do require the owner's signature on every application packet.

Spelman: Okay. But it's not -- to your knowledge -- you're not sure whether the application itself actually specifically lists both the obligations and the tax advantages on it.

No, I'm not sure of that. If I could add about the owner application -- the owner initiating cases, y'all see the landmark commission cases that come out of a demolition permit that's been denied by the landmark commission and we had one at the last meeting the Travis house where we have the owner filing a valid petition want to go tear the structure down, the landmark commission recommending a case possible to staff, possibly not, those are no fun for anybody. A lot of the owner initiated cases you see have a positive staff recommendation and landmark recommendation. One of the reasons is because when people come in with an application and it does not appear it will meet staff recommendation, we tell them that before they formally file and pay the fee. We tell them you are not going to get a staff recommendation for this case we don't think it meets the threshold. 99 Out of 100 times that person will go away and will not bother submitting that case. You see a lot of cases and they have staff recommendation, that's because the other people we've all basically scared away. We did receive a couple weeks ago 14 additional applications in the Pemberton area. And the officer told all but five we would not be able to recommend the case and it was not worth the time or effort to file the case. Hopefully those people will take the advice and will not bother filing, but that's often why you see a staff recommendation for an owner initiated case.

What kind of work does Sadowski have to go through?

It's a lot of work especially for a case that he feels -- he gives it an initial quick review to tell the people whether he thinks it's worth submitting. Once the case is committed, he goes out to visit the house, of course, and does an awful lot of research into the history of the structure as well as the people that lived in. That's the backup presented to you.

Spelman: Sounds like an enormous amount of work. When we were talking 20, 25 cases a year, if in rate keeps up, he's going to be talking about several times that much work he's spending at the history center vetting these individual cases.

It has been, especially this year, has been trying on the historic preservation staff with the sudden influx of cases, yes.

Spelman: Is there an argument for reducing the number of such cases we would consider a given meeting? Say four or five just to give you and Steve an opportunity to get control over your workload?

That is something that we have discussed. Typically at the zoning and planning commission and planning commission which I deal with most often, we take all the cases Smith up to the deadline, put them on that agenda. Some agendas are very busy, some are very thin. Some boards, like for the board of adjustment, for example, puts a cap on the number of cases they will take for any given meeting. We think that a similar idea for the landmark commission would, one, make the workload more manageable

tore staff, two, spread out the cases and hopefully avoid the december rush we have every year, and three would essentially put a cap on the number of owner initiated cases you could have in any given year because there's only so many months t landmark commission meets once a month. It would be that times --

Spelman: Have you given thought as to what you think that cap might be?

A number that's been suggested is four, but we have not -- [laughter] which would be -- but we have not actually thought too hard about the number, not yet.

Spelman: I understand. I imagine zero came up every once in a while as well.

We had 12 meetings a year, if you have one per month and 12 times four, theoretically would be 48 days which happens to be the number we have would be accomplishing this year after we're done with next week, which has been the busiest year in the program. It would still allow for quite a few cases. I think it would spread it out a lot better so we're doing them as the year goes long rather than most in december.

Spelman: That makes good sense. Is this something you do through standard operating procedure or require council action?

We have discussed this with the law department. I think, and comment, i believe it could be done either will you the rural posting process or through a code amendment. Either one. A code amendment would need to be initiated by the council or the planning commission. Staff could go ahead and do it as part of the rule process.

Spelman: Mayor, in light of the fact that we do not have a copy of the application in front of us and we understand -- I'm given to understand, I've heard from people other than jerry that these all come from the same neighborhood, were all submitted by a third party, I'm uncertain as to whether or not the homeowners actually understand the obligations they are undertaking in exchange for the tax benefits, which I'm fairly certain they do understand. With that in mind, mayor, i would like to postpone action on this -- well, I'dreally like to postpone action on this until january. I realize that somebody is going to have a lot of fits about that. One of the people who may have problems with that is sitting right next to me so I won't do that. But if you could get a copy of that application, jerry, it would really assuage my concerns and substantial work for the city downstream then wanting to do substantial refurbishing of their houses on which would not be appropriate for an historic house. Is there a way we could accomplish that later today?

I could pull that off the internet right now.

Spelman: Mayor, I would like to postpone action on these cases for a few minutes to allow jerry to get that.

Mayor Leffingwell: Council, without objection, we'll table items 60 through 84 and there's some other business we can take up and we should be back to this item within 20 or 30 minutes. Councilmember shade.

Shade: I just have one other question that's been brought up too which is there's some confusion about where -- which ones went to -- these all went to planning commission and there's some we about the pemberton or is it underway or is that clarified because I understood there is confusion about that.

If you could, that one one more item.

Shade: I wanted to ask you beforehand and I don't know the nature of that. Look into that, please. And also these are all three readings is what we're looking at?

Yes, all of them are posted for all three readings.

Shade: If we only did first reading today, then second and third could happen on the 17th if we needed the --

yes.

Shade: Just another option. Thank you.

Mayor Leffingwell: Yeah, and so if there is no objection, that's what we'll do. Let me just say I'm going to be very reluctant to arrest arbitrarily or some cover postpone these cases into next year without good cause. I mean I'm very concerned about the loss of revenue. I'm very concerned about all the issues that have been raised here, staff time and so forth, and I think something should be done. Tent I feel I think I could support a moratorium or limitation on the number of cases per meeting held by the landmark commission to spread this workload out. But you know, these folks that made these applications, they didn't make the rules. They were playing by the rules at the time and I think it's a little bit -- something i wouldn't want to do is to change the rules in mid-stream just because all of a sudden we recognize we have a problem. So that being said, we'll go ahead and table this and take up our next agenda item and then we'll deal with it later.

Mayor, I have a question.

Mayor Leffingwell: Councilmember cole.

Cole: I guess I agree with the mayor's comments and I think the individuals who have made these applications did so in good faith and that they have been approved by the planning commission and steve has signed off on them. But I am really concerned about the policy going forward. For all the reasons that councilmember spelman has already expressed, which is the tax roll and staff time. But also I have a big concern about the equity issue. I think that we have a fundamental problem if all of our historical cases are being concentrated in a particular neighborhood. And I think that we have to look at

that city-wide and maybe in addition to the work that you are going to do considering limiting the number of cases that we have a year, that you can also do some analysis about the areas of town where those cases are occurring. I know that one of the requirements for receiving historical designation has a lot to do with kind of note notariety in the community and you don't have to be a inform mayor to get those beuse most of them live in pemberton heights. I have a problem with the equity but I'm not sure if we're getting applications north and south and east, but I think there should be a potential for that.

I do have a map ade here if you would like me to put it up on the screen.

Cole: Sure.

Mayor Leffingwell: Since we've already proposed to table it, we'll take all of this when we take the issue up again. Do you need to ask them now? Are they relevant to the -- more information to come back or can you wait until we take it up.

Morrison: Let me ask it. There might be some questions. I think if we're going to have the discussion about, you know, should they be limited and all, the question I would have and maybe you can answer now or maybe we don't have the answer is with our overall policy of encouraging historic preservation, do we have a plan that tells us, number one, what are the high priority structures and properties for historic preservation, which I would hope would include equity consideration, and number 2, do we have an estimate or a target for how much of our city that's historic we would like to have zoned historically. I guess that might all go into a presentation, but do we have any of that information available?

With regard, we have a preservation plan. We have an aadopted preservation plan from the 80s, A PRESERVATION PLAN That we have been working on the past several years, is not completed yet. Working with the university of texas. As far as the percentage area of the city that we would like to see zoned historic, I don't think that really has been a part of the plan or any discussions. We do have as far as determining priority for structures, we do have the 1984 historic survey which assigned a priority to the -- to a lot of structures, but that survey did not include every neighborhood even within the core area of the city. And it's now getting old. We are looking into in response to the council resolution from last year, looking into conducting a new historic survey, but we have not finished that process yet.

Morrison: And then i think another tool that's relatively new that is probably will help aswayed some of the historic preservation -- historic landmark applications is the local historic district. Do we have that sort of rolling along so that folks can --

yes, I have a staff in my office, susan villarreal, who is not exclusively working on historic districts, but certificate of appropriateness. We have three or four that are getting close to submitting right now. Travis heights, hyde park, a couple others that are getting really close to submitting. Up to that we only had one. The [indiscernible]. One issue that has come up in discussions about today's agenda would local historic districts solve the issue of having so many cases on today's agenda and frankly i think the answer is no because local historic districts were really aimed at maintaining the character of certain historic neighborhoods. And specifically to address the issue of demolition permits and teardowns in

those neighborhoods which was a big issue when the economy was hotter. What local historic districts do is provide a tax incentive for somebody who has a house within the district but do not meet the criteria of historic zoning. If they were to make improvements to that house, it provides tax abatements for the additional value the improvements bring. So it's incentive instead of doing a demolition and starting from scratch, improve that nice bungalow that you have, add some more square footage in the back and you get a tax abatement, yet you don't get the tax benefit of historic zoning. So somebody is filing a case solely because they want the tax break, I don't know that the local historic district would address that issue directly. [One moment, please, for change in captioners]

Leffingwell: Most people city tax is much less than two thousand dollars, property tax. Councilmember shade.

Shade: Just another question on the local historic district, the tax abatement issue is for a finite period of time, whereas on the historic zoning, when you receive this tax abatement it's in perpetuity, is that correct?

That is correct. And also the changes that were made, the cap that was made that was not done retroactively on the properties that already had historic zoning. So it was only the cases that have been approved in the past, say, two years that have the cap. The historic property that was zoned before that is still under the old rules and there's not a cap, but you're right, the local historic districts are a set of improvements for a set period of time.

Shade: Okay. So back to professor spelman's refrigerators. If it's \$120,000 this year, that's, what, 233 refrigerators not just this year, but every year, plus whatever we add to it.

Spelman: And a multiple of that the school district to the county.

Shade: Thank you.

Leffingwell: Obviously this is a subject that's ripe for more in-depth discussion and analysis in a lot of different ways. For example, the potential as far as I know, there's no limit on what the potential could be. Maybe the city needs a policy of limiting our impact to the total tax base, something like that. A preservation might be in order to or perhaps less. We might want to think about a number that would be appropriate. So obviously there's going to be more said on this subject, but when you come back with the data, we'll be able to engage a little more fully. We'll table it for the time being. Without objection, council will recess this meeting of the austin city council and convene a meeting of the austin housing finance corporation board of directors at 3:18 p.m. Margaret shaw will take us through the agenda.

Good afternoon, president and board members. I'm the chairman of the austin housing finance corporation. We have six items on the agenda today. I'm going to offer four of those on consent. The first one is to approve the minutes from our november meetings on november fifth and a specially called meeting on november 19th. Then skipping to item four, which is to approve the negotiation and execution of a loan to dma development company, which is in the amount of a little over two million

dollars, which is to support our senior tax credit development at the mueller redevelopment area that's 201 units for seniors, low income seniors to live at the -- low income seniors to live at the mueller redevelopment site. Item five is renegotiation of an amendment to our budget to draw another two million dollars roughly in our general obligation housing bonds for the project that's listed in number 6, which is foundation communities alone to foundation communities to support the acquisition and rehabilitation of shady oaks apartments, which is a 238 unit existing complex off of elmo that will support families and schools around there. I propose those four items, those four on consent and we're open for questions. We have items 2 and 3 which are related. Number 2 is a public hearing related to --

Leffingwell: Ms. shaw? Hold on just a second and we'll get through the consent agenda and come back to that. The consent agenda is items 1, 4, 5 and 6. Is there a motion to approve the consent agenda?

So move.

Leffingwell: Motion by councilmember cole, seconded by councilmember morrison. Is there any discussion? Councilmember morrison?

[ Inaudible ].

Leffingwell: I said she made the motion.

I think it was spelman.

Spelman: We look alike. Honest mistake. [ Laughter ]

Leffingwell: If it means that much to you, we'll say councilmember spelman made the motion to approve the consent agenda, 57600 is in project base section 8, so it's already affordable housing and we're excited to be able to keep this in the portfolio. We're also happy to have summit housing partners doing deals in austin. They're a nationally known corporation that spernl lies in acquiring and reveetle liesing project-based section 8's. Some of the project activities that they'll have on site for the residents include things like financial counseling, health education, parenting workshops. So we're excited to have them on board. The first item, number 2, is to conduct a public hearing, which is required by state law. And after you close the public hearing and if it's the wish of the board to approve the issuance of six million dollars in bonds. I do have bond council here if there are any questions related to bonds.

Leffingwell: Okay. Is no one signed up to speak unless board members have questions. That being said, I'll entertain a motion on number 8, which is to conduct a public hearing.

Spelman: Move to close the public hearing.

Leffingwell: Councilmember spelman moves to close the public hearing and seconded by board member shade. Any discussion? All in favor say aye? Any opposed? That passes on a vote of six to zero with the vice-president off the dais. And item number 3 I assume you're complete with your

presentation on that. It is to actually approve the issuance of the bonds. Is there a motion to approve item number 3?

Spelman: Move approval.

Leffingwell: Board member spelman moves approval. Board member shade seconds. Is there any discussion? All in favor say aye. So that passes on a vote of six to zero with the vice-president off the dais.

Thank you very much, board members. That concludes our business today.

Leffingwell: Thank you. So no more items on the agenda, so without objection, we will adjourn this meeting of the austin housing finance corporation board of directors and reconvene this meeting of the austin city council. And I believe we're at the point to where there are no items on our agenda except for the pending item 60 through 84 that we can take up at this time. So without objection, council, let's stand adjourned for 15 minutes and see if -- I believe they said they could be back in that time. We stand in recess for 15 minutes, not adjourned, if i misspoke.

Leffingwell: We are out of recess and I think we'll begin with allowing councilmember spelman to reask the questions that he asked that were not answerable prior to the recess.

Spelman: Mayor, if i could --

mayor, we're making copies. I was asked to show the map of all the historic zoned properties in the city. We have put together a map that will be on the overhead here in a second. These are all the historically zoned properties in red that are in the core area of the city. If we make this map to show the whole city, they get too small to read. We kind of tried to zoom in to whether you could look at it. With regard to the issue of the cases going to the planning commission versus the zoning and platting commission, once we have a kickoff of a neighborhood plan, we have a resolution from the council, at that time all cases that are within that area go to the planning commission instead of going to zap because the neighborhood plan is underway. I'm still looking into those cases that are on today's agenda may be in the olden field area, which was identified for a neighborhood plan; however, it was left out of the neighborhood plan at the request of some residents, specific resident of the area. So that being said, olden field is not in an area that has a pending neighborhood plan. Any cases that are on today's agenda would have been required to go to the zap because we essentially have a hole in the donut if you will of all the neighborhood plan areas of west austin. So we do have a recommendation from the land use commission, however, it is the planning commission and a couple of these that are in olden field that should have gone to the zoning and platting commission. I'm sorry about that mistake, if it was made. And with regard to --

Leffingwell: So that question, can I ask you is that a legal question or is that a matter of choice distributing the work load? Does the fact that they went to the planning commission instead of zap, does

that invalidate part of the process?

I do not believe that invalidates the process. I would have to check with our attorney on that. I believe that is the recommendation to the council and whether it went to the zap or the planning commission, although it should have gone to one or the other, I don't believe that would invalidate the case. I would center to check with our lawyer on that.

Leffingwell: Woof got plenty of lawyers. I'd ask you to check on that.

And with regard to councilmember spelman's question about what the application packet says, we have xeroxes being made of the application packet for y'all right now; however, right on the front page under the general overview section of the packet, the first sentence of the third paragraph says once designated, all proposed exterior site and building changes or even routine maintenance to a historically zoned tract requires advance approval by the city historic landmark commission. A copy of the review standards are available from the preservation office. City historic landmark properties in good repair and in full compliance with the city historic review requirements are eligible to annually apply for historic property tax exemption. So I believe it does state on packet that that would be a requirement. I forgot to mention before too each person is required to annually submit for their tax exemption with the city in order to get the abatement as a part of the historic preservation program. So every year we have a few who call us on january third because they forgot to file their application, but it is a requirement and requires an annual extension, if you will, and is not automatically granted. However, most people apply for it on an annual basis.

Leffingwell: Councilmember.

Spelman: Jerry, with respect to the packet, i understand you're making copies of this and we'll have a chance to take a look at it, but -- they're coming right now. Perhaps, mayor, I could defer to councilmember shade, who I know has some questions of a different nature while I look at this packet.

Leffingwell: Councilmember shade.

Shade: I didn't -- my questions was what was the neighborhood pla question. Just to make sure. And again, you will find out, I guess, but their advisory in any way. It's up to the --

that is correct. And not all the cases -- I'd like to point owvment I was speaking to some of the folks while we had a quick break, of who have applications for you today and they asked me to point out a couple of things. One, not all the cases on today's agenda are in pemberton. We have some elsewhere. And also that not all of them received help from a third party. That some of the folks that are here today did their own research and did their own legwork in filling out the application and doing the research. That they paid nothing to submit their application.

Shade: I'll just take opportunity to say, especially if those folks are in the audience now, that I completely supported the notion that the mayor raised, which is people playing by the rules. You know, this is

something that we do need to look at because the city is the gate keeper for these other taxing entities. And so we do need to make sure that our process works well and that we're prioritizing things appropriately. The issues that have come up regarding the equity and what it does to tax base, as councilmember morrison said, there are a lot of issues that should be looked at in terms of the survey of how it's been done. It not just a matter of staff capacity, but so many other considerations. So I really do look forward to working with people in the coming year. I don't think that's something we're going to take -- we're not going to address that today. And I certainly don't mean any disrespect for the people who are here and who have been gone through the process. I think it was an alarmingly large number. And I had asked a question at the last meeting when we had 20, and then to come to another meeting when it was -- or it was 17 and this time it's 25 or whatever. It's just a lot. I think it's a signal that we understood to be looking, but we're going to solve those. I t -- I thank the staff for pulling this together.

Next week we'll have three and that will be it for the year, I promise.

Shade: Yeah, we're not getting together again. Thanks.

Leffingwell: Councilmember spelman.

Spelman: Mayor, let me offer the following proposal. We usually get some cases of this kind every december. So some of these cases are owner submitted, some of these cases were solicited by a third party and submitted on behalf of the owner by the third party. Although the packet clearly states, as you described, both the obligations and the tax advantages in the packet as a whole, a place where you sign and a place where you have to fill in information about information about the individual property t doesn't show up until page seven and you don't have to sign until page eight and then later parts of this. It seems to me it's worth the trouble for us to do a spot-check of some of these cases just to verify that the people on whose behalf they were submitted understood both the obligations and the tax advantages. Jerry, would you and steve be willing over the course of the next week to make just a few phone calls, not all 25, but just a few of these just to verify that in fact the owners did understand what they were getting themselves into?

Yes. We could do that.

Spelman: With that in mind, mayor -- the other issue, I believe, is that the third-party applications were confined to olden field and pemberton and there are at least three -- six cases here which do not represent olden field and pemberton and we could reasonably presume were submitted by the owners rather than by a third party. So if you could just restrict those cases that you make spot checks on, those cases associated with olden field and pemberton, that probably would save you some time and probably just add a little bit of accuracy to our process. Mayor, if picked direct the city staff to do that spot-check, I am happy to move approval of all 25 of these items, 60 through 84, on first reading only.

Leffingwell: So councilmember spelman moves to close the public hearing and approve items number 60 through 84 on first reading only with additional directions of staff and to bring these items -- all 25 back on december 17th. Second? Is there a second? Seconded by councilmember cole. Any further

discussion? Councilmember morrison.

Morrison: Please show me as recusing myself on number 66.

Leffingwell: We'll do that. Councilmember morrison is recused on any subsequent vote on item number 66. All in favor say aye?

Cole: I had some direction to staff. I really thought that the mayor's idea about considering a proposed overall cap because of the tax implications of historic zoning like we do for tif's as a financial matter, i know that will take some time and that you need to work with our finance department, but I do think that we should think about that. And I also think we need to think about a policy to require some consideration of equity so that if a particular neighborhood has already received whatever, five designations of historic, then perhaps it rolls to another neighborhood, some type of system like that. Let's visit about that and brainstorm that.

Leffingwell: Additional direction to study some of these additional issues, financial impact, vis-a-vis a cap and other issues that might impact historic zoning. So is there any further? Councilmember morrison.

Morrison: I just wanted to make sure that you keep in mind that there was a taskforce that looked to historic zoning, as I'm sure you'll remember, and that 2000 and the concern about loss of revenue was discussed at that time. So they may have actually helped us move the ball forward and so I wanted to suggest we do back and look at that. And also make sure that we have good discussion with the landmark commission and all as we try to figure this out.

Leffingwell: Are you clear on everything, jerry? Okay. All in favor say aye? Any opposed? That passes on a vote of six to zero with the mayor pro tem off the dais.

That concludes your zoning, mayor.

Leffingwell: With that, council, and clerk, i believe we are done with all the items that we can take up until 6:00 p.m. Without objection, we'll stand in recess until , with the understanding that some of 30 for ceremonial event. Events.

welcome. I get to do something fun tonight. I'm the one who gets to introduce the music tonight, and we're really happy to have house of songs here joining us today, paula jean brown is representing the house of songs. She's an award winning singer and songwriter. It's a partnership between a group of dan issue song writers and producers in austin. Mission is to link talented musical artist from two countries, and share the results with the world, which is a very -- that's an [00:34:02] awesome undertaking. Accompanying paula today had two danish song writers. Please welcome the house of songs. [Applause] [music playing] danish [applause]

fabulous. Thank you so much. So I know the rest of the group is going to join too, and I'd like to ask a

couple questions to give you a chance to talk about what you're doing. First off is how often do musicians come to the house of songs?

Musicians are coming to austin -- two musicians from denmark every two weeks, and [00:38:00] they're staying here for about 11 days.

That's great. And is your music available to purchase and do you have a web site?

You can come to the web site and find out about the artists and the other visitors and the technicals we're working with at the house of songs.com.

Great. So I have a proclamation when I get to present to you on behalf of the mayor, and do you-all want to come up here, or one or all, whoever. The fun part. You get the big certificate.

Wonderful.

Be it known that whereas the local music community makes many contributions towards the development of austin's social, economic and cultural diversity and whereas the dedicated efforts of artists further austin's status as the live music capital of the world, now, therefore i, on behalf of lee leffingwell, do hereby p december 2009 as house of cards day. [Applause]

and because I can never resist at the dinner break i have to say hello to my kids who are watching. Hi ethan, hi emmy. [00:40:01]

Good evening, folks folks, my name is mike michaud. I'm the associate director for water -- and the compliance division, epa region 6 in dallas. I'd like to today -- I'm here today to present a plaque to the austin water utilities for their assistance that they provided us in putting on a capacity management operations and monitoring workshop here in austin, and this is the sixth year that they've done this. It's a cooperative effort between epa than the texas commission on environmental quality, our state representatives and the city of austin. The city of austin has undertaken, or the austin water utility has undertaken an effort to assist other cities in solving some of the problems that they have very effectively solved themselves, and that's the minimization of sanitary sewer overflows. The themom program is one that cities can adopt and help them provide continual funding, provide operations and maintenance guidelines so that they can minimize the number of sanitary sewer overflows that occur in their city. And the city of austin has helped a tremendous number of cities not only throughout our five-state region but throughout the country in showing what they have done and the good works that they have done and also sent out the word through this workshop. This past year there were 350 attendees from other cities attending the workshop. Unfortunately, I think because of economic hard times on some of these cities, the numbers were down from last year, so that we hope to get those numbers up again next year. I'd like to recognize some of the folks that helped put on this workshop. Greg mazeros, who is the [00:42:01] director of austin water utility. Raj pateri, who has been our contact and has done the majority of work to put on this workshop. Some of the other folks within austin water utilities that have helped us, heather cook, sandra zuniga, som berry, steve slader. I'd like to present them with a plaque

commemorating their assistance in this effort. [Applause]

thank you so much, mike. It's a pleasure to accept the award and one of the things that we enjoy at austin water is collaborating with other cities, sharing our knowledge and learning from them to take steps to make our environment better and cleaner, and so it's a pleasure for us to host -- actually I'm going to reverse tables a little bit. I'm going to congratulate mike. He's retiring from epa at the end of the month. He's served our country and protected the environment for 33 years. I think there's no better calling be to be a servant to the public and protecting our environment for 33 years, and mike, we really want to wish you well in your retirement. Congratulations. You've done a lot of work with our city and i appreciate your service.

Thank you,.

And with that, mayor -- I'd like to thank you also, mike, for this award, and also greg and raj and others in the water utility and wastewater utility who have done so much for many years, you know, about -- about eight or nine years ago, i believe it was, we realized that we had a pretty serious problem with wastewater overflows. As a matter of fact, we came under an epa mandate to fix those overflows. [00:44:01] And of course being the kind of city we are, we addressed that problem very aggressively, and at the same time that we were fixing wastewater overflows in our urban creeks, we also set about to improve those creeks and embarked on unprecedented program of cooperation between various city departments. Watershed protection, of course, and public works, the parks department, austin water utility all worked together very closely to -- at the same time that we were cleaning up these overflows, to improve our urban parks and to improve the bed and banks of our urban streams. It was a very successful program. We received an award for that program, and so as has been mentioned, the city of austin has been very glad to host these conferences to share with other water utilities what we learned going through that process. So I can just say that I'm very grateful for the award, and I want to thank, again, our water utility for their stellar work in cleaning up our urban creeks and stopping our sewer overflows or reducing them dramatically over time. So thank you very much. We all should be very proud of them. Let's give them a hand. [Applause]

we're going to take a picture. [00:46:02]

Now, it's going to be my great pleasure to recognize the first graduating class from the austin cityworks academy. I think we went into this with 30-some odd folks and came out with 28 graduates. That's a great percentage. And I think most of you are here tonight and we're going to get you to come up and receive recognition for going through this program and contributing so much to your community and so much to the city. A three-month program. All of you applied and were selected based on your relative merits, and we hope to continue this program in the future, and I hope that you'll help us continue this program by sharing with others. I believe all of you have been enthusiastic about the merits of the program, how well it worked for you, and so help us convince other folks to apply for this program and go through the cityworks academy just like you did. And I want to ask one thing else of you. I want you to stay involved with our city. I see so many of you out there that I know personally, have known over the years, and I know that you're very committed to the city of austin and to improving our community,

and so just keep doing that. Pass the word, share the word, and always remember, this is your city government, and tell other folks that you meet that this is the case also. So before you step up to receive your graduation certificate, or we could even call it a diploma if you prefer, we got a couple of things today. First we got a video to play. So if you want to go ahead and start the video we'll do that. [00:48:04] [Music playing]

new program of the city of austin that really seeks to reach out to the people, get you involved in city government, keep you involved in city government, so thanks again to all of you.

I can't begin to tell you how excited we are that all of you want to give of your very valuable time to participate in this academy and learning about the great city of austin.

You know, I thought initially that the program -- we'd get a good response. You know, I think austinites are typically engaged and want to be involved in the community, so I didn't have any fears about it not being successful, but what surprised me the most was, it was extremely successful in the sense that we received over 300 applications after just a week of outreach to the community.

Cityworks really provides a window into what it is that we do as a city and gives residents an opportunity to interact with the people that actually provide those services. We've heard over and over again throughout this first class from a number of the participants that they just didn't know, they had no idea all of the things that the city is involved with, and I think that's the first step in really informing and empowering residents to get involved.

I had no idea the complexity of all the services that are provided for us. [Music playing]

cityworks academy provides a wonderful opportunity, as someone who's interested in someone who's interested in the city, to learn about the city departments themselves, a little bit about how each of them work, the best contacts to reach and really to understand how the various departments work together.

Oh, yeah! [00:50:00] That's a good --

that was a long answer.

I'm a windy person, who i hired. [Laughter]

we don't particularly fire them unless they show a history of driving lawn mowers into pools. [Laughter]

I actually learned that these people were not some bureaucrats locked up in some high castle of government but ordinary people who genuinely cared about the city. So I think the biggest benefit that I've derived from just being in this program is learning that the folks who are -- who help -- who help run the city actually genuinely care about the city and are no different from the residents, like me. [Music playing] excell excell ent. And I neglected to thank marc ott for standing behind this program and providing the great support for it. What made it a great success. Would you like to say just a couple

words?

Well, really just to say congratulations to you-all. You've heard the expression that many are called but few are chosen. You're the chosen few for this first academy, and we're certainly proud of you, and certainly that's reason for pausing this even to recognize your involvement and your commitment to our great -- to our great city. One of the things that i talked about when I was -- when I was hired, and you probably heard it more recently when we were preparing the budget for this current budget year, was my desire to sort of take the mystery out of how we do that, and, you know, i think that the academy speaks to that as well in terms of giving its participants an opportunity [00:52:00] to get a really up-close and personal look at how a municipality operates, and in this case how your city operates. So I know over the weeks that you had the opportunity to interact with many of our city employees, and you got a real taste, I believe, of, you know, the complexity associated with many of the things that we do. I did hear some feedback about you-all along the way and your enthusiasm, but particularly for some of you when you had an opportunity to hold on to a charged fire hose, for example. [Laughter] you saw that in the video. But I think, you know, that we talk a lot about being -- you know, wanting to be known and recognized as the best-managed city in the country, and, you know, we work as city employees and elected officials -- we work hard at that every day, but the reality is that we can't -- we can't realize that ideal ultimately without engaged citizens, people willing to step up and participate and the work of governance, something that goes on absolutely every day. So to whatever extent that what we do has been a mystery to you, I suspect that in many respects it's not anymore. And I've also heard that, you know, some of you have already expressed your ongoing interest by indicating a willingness to serve on boards and commissions. I even understand that somebody in the mix has even applied for a city job. So I'm really happy that there's that kind of feedback and there's that kind of commitment to the city of austin, and with that type of citizen engagement and commitment as you've displayed over the past several weeks, I am absolutely confident that we will be successful in our absolute singular pursuit of having austin known as recognized as the best-managed city in the country. So thank you for your participation in the academy. [00:54:00] [Applause]

our first graduate, miguel ancira. [Applause] ted hachi ontish. [Applause] [laughter] kirk becker. [Applause] boon blocker. [Applause] [00:56:00] elizabeth brenner. [Applause] andy brown. [Applause] terry brusard. [Applause] jason callahan. [Applause] june carr. [Applause] kara chatfield. [00:58:00] [Applause] trey chavez. [Applause] william evans. [Applause] jane fink. [Applause] McKINSEY FRAZIER. [Applause] irene garnet. [Applause] calvin goss. [Applause] derek harris. [Applause] elinor harris. [Applause] brian king. [Applause] george luke. [Applause] [one moment, please, for ] susan knowles. [ Applause ] ian powell. [ Applause ] cookie ruiz. [ Applause ] jason turner. [ Applause ]

I want to take the opportunity to thank the ott and you, patricia, and doug. I don't know where doug is. I think patricia heard me several times through the weeks of the city academy saying, you know, I was telling everybody about this. I am a relative newcomer to austin. When this began I was only here maybe three months. Maybe even less. And the opportunity seemed per. And thous threes weekd -- and thousand these weeks I've told everybody I've met how to learn the pieces of government, who the players are and how to get involved and perhaps be effective -- be a more effective citizen. So I can't, again, thank you all enough. I have deeply appreciated it. I feel like I've learned a lot. And I also wanted

to actually say thanks to my fellow city classmates, city works classmates, because i don't know who did the selection for us, but we were a varied group and I've got to say I appreciate it a lot. The questions that came from my fellow classmates, thank you guys. I really appreciate it. I've learned a lot. Thank you. [ Applause ]

Leffingwell: Good job, jason. Thank you. And aren't you all supposed to throw your hats in the air or something at this point? Congratulations again, class of 2009. And there is a reception i believe in the boards and commissions room immediately following this with a great big cake. Enjoy it, thank you again. [ Applause ]

before you take off, just join me in a round of applause for doug matthews and patricia and all of the city staff that worked on this. [ Applause ]

Leffingwell: So now we're going to present a distinguished service award to mike simpson of ctm. That means he works with computers and information stuff, something that we do a lot of here at city hall. And I'm going to read the certification of appreciation for you, mike. Distinguished service award for service and commitment to our citizens during his 12-year ten as wireless communication service manager for the city of austin. Mike simpson is deserving of public acclaim and recognition. Mike has provided exceptional leadership and made noteworthy contribution to the success of the wireless communication services division. He played a significant role in the integration of the austin-travis county regional radio system into williamson county and in the middle rio grande region. He was also appointed by the governor and successfully implemented a statewide radio interoperability plan for the state of texas. His ability to move forward through obstacles, achieve cohesion among diverse groups and communicate clearly to all levels has not only earned him the respect of his peers, but has also drawn the attention of national leaders and other entities. This certificate is presented in acknowledgment and appreciation of his public service this 12th day of december the year 2009, the city of austin, signed by myself, mayor lee leffingwell, and the names of all city councilmembers below. Thank you, mike. Would you like to say a couple of words? [ Applause ]

I've been in the communications arena for something like 42 years. 12 Of those were spent with the city of austin. And I can honestly say those were the most productive and most fulfilling 12 years of my entire career. And I tell you it's the people that make the difference. It's the people at the wireless communication service division, it's the people at ctm, it's the fellow employees at the city of austin, city management, council. It all made a big difference to me as far as my professional career. Probably the greatest claim to fame or crowning jewel during my career has been the regional radio -- I see robert turner standing in the back. Robert was our project manager. This was a 100-million-dollar system that was funded by the taxpayers and multiother jurisdictions in and around the austin area. And a lot of people don't know when you pick up the phone and you call 911 that 50-cent a month fee you pay to the state only pays for the call to be picked up at the other end and put in the computer. That call then has to be delivered to our public safety team, police, fire and e.m.s. This project in part was greatly responsible for improved public safety response that directly 4 million population area of this state t did make a difference. I feel very appreciative that I was part of it, but it wasn't just me, it was the team that worked with me, it was the bond holders who bought the bonds when the city sold them, it was the

council support. But we truly live in probably the best place on earth. Thank you, mr. mayor. It was a -- I enjoyed working with you and I look forward in my new job at assistant director to working with the city of austin. [ Applause ]

good afternoon, my name is paul and I'm a deputy chief information officer with the city of austin. We've all had plurt of working with mike over the last 12 years. And he covered a significant amount of the things that were important, but I just wanted to highlight a couple other items. In the process of overseeing the regional radio system and working with that, mike was also responsible for securing \$15 million in federal public communications grants to grow and enhance the radio system. And I think the thing that's probably the most important that hasn't been discussed yet is the fact that mike's ability to reach out and talk to people and get them all to cooperate has made it possible for a number of radio systems across the state to be connected. And he's continuing with that at d.p.s. That's why the governor's office appointed him to work on that project and we hope to continue in the future to have good working relationship. [ Applause ] so now it is my great pleasure to read a proclamation honoring acfsmc, the fed of municipal employees who serve the people that work for this city, this county, this state and the federal government offices here in austin, texas. I can tell you that they have performed admirably on behalf of the people that do the actual work to make the city of austin function. I'm very proud of the fact that I am an afscme member, along with majority of our councilmembers, and congratulate them on their achievements on behalf of the workers of this city. I'll read the proclamation. Be it known that whereas the american federation of state, county, municipal employees, local 1624 is celebrating its 40th anniversary as a union representing city of austin employees and whereas through their tireless efforts acfsmc local 64 has contributed to the development of a safe, healthy and productive work environment for city employees that has been beneficial to our community as a whole. And whereas we're pleased to recognize afscme local 64 for providing exemplary service and representation on behalf of its membership in the interest of all city employees for the past four decades. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim december 12th, 2009 as afscme 40th anniversary celebration day in austin, texas. Congratulations to all of you for your leadership. [ Applause ]

> my name is jesse and i am the current president of afscme local 64. And as a proud better for 28 of -- as a proud member for 28 of those 40 years, I am proud to accept this acknowledgment on behalf of afscme employees number 64. We will strive to continue to do things that have positive outcomes for the city of austin, its employees, and we will continue to work with our brothers and sisters at the other unions and associations such as police, , again, to promote nothing but quality outcomes for all employees of the city of austin. Thank you very much. [ Applause ]

Leffingwell: I'd like to now introduce councilmember chris riley to make another presentation. Chris?

Riley: This is one of those opportunities that i really get excited about, when I get to do a proclamation about a cause that is really near and dear to me, and this one s it's been very excite to go me to see in the past few years that more and more austinites have been deciding that the foundation of their diet should be local sunshine rather than imported fossil fuels. So in response we've seen a wonderful community effort emerging to help facilitate a transition towards more local food because we've all been

recognizing the benefits that we can achieve by having a better local food infrastructure. Benefits in terms of the public health and the environment and in having a more sustainable, cohesive community. And really the city has been looking to the help of folks in the private sector to help us get there. And it's folks like marley camp, who is serving as chair of our sustainable food policy board just created within the last year. Also publisher of edible austin. It's my great pleasure to recognize those efforts tonight, in particular with an event that is going on right now, eat local week. It is -- actually, it's the edible austin eat local week. So I have a proclamation to read about that. And let me just read it. It says be it known that whereas scores of area restaurants and markets are participating in a benefit event organized by edible austin magazine for urban roots, a youth development program that uses sustainable agriculture as a means to transform the lives of young people and to increase the access of healthy food in austin. And whereas part of the proceeds from the sales of locally grown and made foods at markets along with locally sourced entrees and drinks at restaurants and other special events happening this week will go to urban roots. And whereas the fine food art gallery night, the meet your local brewers happy hour and the grand finale media celebrity local food cookoff celebrate this week in fund-raising. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do ask austinites to experience the abundant food in austin, texas and proclaim december 12th through 19th as edible austin eat local week. [ Applause ]

on behalf of edible austin and urban roots represented tonight by co-program director mike evans and chris matthews, a recent graduate and a returning director -- farm intern. I'd like to thank the city of austin, in particular all the councilmembers and the mayor for their support for eat local week. And we really appreciate it. We want to make every week of the year eat local week. But this particular week we can really put a lot of focus on connecting people to all the wonderful local food makers, chefs, restaurant owners, growers, producers, food artisans, and all of us eaters everywhere to truly celebrate the abundance of local fresh seasonal food in austin, texas. Thank you. [ Applause ]

as a director of urban roots we're happy to be part of this program. We're happy that the city recognize this had week to be working with edible austin. And to have the city and its members think about where our food comes from and how we eat everyday. Thank you. [ Applause ]

Morrison: Speaking of local, I'm joined here by rebecca and dean from the austin independent business alliance. One of the great things about austin is how i believe we all really get it, how important our local businesses are. It's important to our neighbors who are the local business owners and work in local businesses. It's important to the character of our city and what makes a place as opposed to we could be anywhere, u.s.a. So I'm really grateful to all the folks that are in local businesses and for aiba for their work to really promote local businesses. And I think one thing to consider is we can consider it our civic duty to go shopping and buy local and shop at the local businesses. So I'm pleased to be here tonight to -- it's a proclamation really to sort of remind everybody. As I said, I think everybody gets it that we need to support our local businesses. Just another reminder that as we are into the throes of the holiday season to keep in mind that we should be shopping local. I would like to read this proclamation from the mayor. It says be it known that whereas shopping at locally owned businesses puts three times the dollars into our local economy. Of \$100 spent at a local business, \$45 stays in our community compared to only 13 when people shop at chain stores. And whereas locally owned businesses buy their goods and services from other locally owned businesses, linking our community in a web of economic growth,

members of the austin independent business alliance represent more than 6,000 employees, making member companies collectively one of the top five employers in the city of austin. And whereas locally owned businesses from funky to sophisticated help austin retain its unique character and provide a more diverse range of product and service choices than available from national businesses. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim that tis the season to buy local from december 10th to 31, 2009. [ Applause ]

I'd like to briefly let you know that you can find local businesses at [ibuyaustin.com](http://ibuyaustin.com). And we appreciate the city acknowledging the need to get the word out about the importance of buying local.

Leffingwell: We are out of recess and we can now take up our 6:00 p.m. Scheduled public hearings beginning with item 89.

Good evening, mayor, members of the city council. Michael knox with economic growth and redevelopment services office. Item number 89 is part of the annual funding process for the downtown public improvement district. On november 19th, 2009, the city council approved the 2010-2011 budget and service plan for the district. The council also approved the 2010 assessment rate of 10 cents per \$100 valuation and the proposed 2010 assessment roll. State law requires a public hearing to consider the proposed assessments. Approval of the assessment rate and roll on november 19th had noticed mailed to within the area to review air assessments prior to this hearing. This hearing tonight will allow property owners to challenge assess ams of individual properties. Following the public hearing the city council will consider approval of an ordinance adopting the 2010 assessment roll and leveeing of assessments. If there are any questions I'll be happy to answer them, otherwise we are ready to open the public hearing.

Leffingwell: I have no speakers signed up on item number 89. So is there a motion to close the public hearing and approve item number 89? Councilmember spelman moves to close the public hearing and approve the ordinance in item number 89. Is there a second? Seconded by councilmember shade. Any discussion? All in favor say aye. Any opposed? That passes on a vote of six to zero with the mayor pro tem off the dais. Item number 90.

Item number 90 is part of the annual funding process for the sixth street public improvement district. On november 19th, 2009, the city council approved the 2010 budget and service plan the council also approved the 2010 assessment rate of 15 cents per \$100 valuation and a proposed 2010 assessment roll. Following the public hearing council will consider approval of an ordinance adopting the assessment roll and leveeing of aless wants. If there are any questions I'll be happy to answer them, otherwise we are ready for the public hearing.

Leffingwell: No citizens signed up to speak on item number 90, so is there any discussion or a motion from the council on item number 90? Councilmember riley moves to close the public hearing and approve the ordinance in item number 90. Is there a second? By councilmember shade. Any discussion? All in favor aaye. Opposed? It passes on a vote of six to zero with the mayor pro tem off the

dais. Item number 91.

Good evening, mayor and council, greg guernsey with the planning development and review department. Item number 91 is to consider a public hearing and consider an ordinance amending chapter 25-2 relating to a change in the interim zoning designations granted upon annexation to be consistent with standard and small lots shown on approved preliminary plan or final plat. This has been recommended to you by the environmental board, the zoning and platting commission and the city planning commission. Based on our current regulations when properties come in to the city of austin, they receive an interim zoning designation. Standard sized lots, lots that are typically 57-50 or larger, shown on a preliminary plan or final plat dated before 1984, receive a designation for interim sf-2 district zoning. Small lots in approved final plats receive a designation of interim single-family small lot designation regardless of the date and standard size lots that are platted after 1984 receive a designation of interim rural residential or rr zoning for the property. And so when the ordinance as it written today actually dates back to an approval by council in march 1st of 1984 that was effective on january 31st of 1985. And I don't know quite why they picked that particular date in november, but over the last 25 years as we've had properties come in, we've given subdivisi that are a standard lot size an interim rr designation, which is typically reserved for lots that are one acre in size. And so this would actually kind of bring it back into norm for those lots that are more typical. Interim sf 4-a are for smaller lots, about 2400 square feet in size. Rr for lots are usually about an acre or larger in size. And the interim designation given to properties gives them -- give the properties that come into the city a reasonable use and then we would come back and hopefully resume that to a more permanent zoning at a later date. Recently, about two -- actually, the legislative session dated in 1999 already gives certain rights to subdivisions as they're annexed in. There's a section in the local government code under chapter 43 of the local government code that actually has a provision that we pretty much have to allow a project to go forward with the uses that are allowed under the project if it is started 90 days prior to our annexation. So part of this, even if they don't have the right lot size, we have to allow that use to go on and go forward. So staff looks at this as a very minor revision. This kind of brings it in line with code that has pretty much been a standard from 1985 and just recognize that we do have lots from preliminary plans and final plots that are standard size lots and it makes them allowed to be interim sf-2.

Leffingwell: Questions for staff? There are no citizens signed up to speak on item number 91. So I'll entertain a motion to close the public hearing and approve the ordinance amending city code chapter 25-2. Councilmember spelman moves to close the public hearing and amend the ordinance with regard to city code chapter 25-2, seconded by councilmember cole. Is there any discussion? All in favor say aye? Any opposed? It passes on a vote of six to zero with the mayor pro tem off the dais. Number 92.

Item number 92 is to conduct a public hearing and consider an ordinance amending title number 25 to constituent code regarding the requirements for an application of a local historic district. Council approved actually an ordinance back on august 6 of this year relating to requirements for the application of local historic district. It had a provision of how much city land would be applied to an application for an historic district and there was a question that arose, is it 17 percent of 51% or is it one-third of 51%? Well, if you take literally 17% of 51% is comes out to be just under nine percent. This just fixes that to be

one-third of 51%, which turns out to be about 17%. So that's the essence of this ordinance.

Leffingwell: Clear to me. Any questions for staff? Is there a motion to close the public hearing and consider an ordinance amending title 25? Councilmember morrison moves to close the public hearing and approve item number 92. Second? Seconded by councilmember spelman. Any comment? All in favor say aye? Any opposed? It passes on a vote of six to zero with the mayor pro tem off the dais. Item number 93, I believe we have a comment from councilmember riley.

Riley: The only comment was that work on that one is ongoing and so I was going to ask that we postpone that until next week.

Leffingwell: Councilmember riley moves to postpone item number 93 until december 17th. Seconded by councilmember shade. Any discussion? All in favor say aye? Any opposed? It passes on a vote of six to zero with the mayor pro tem off the dais. And city clerk, those are all the items I have on our agenda for tonight. So without objection, we stand adjourned at 6:45.

## **End of Council Session Closed Caption Log**